BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
AMENDMENTS TO 35 ILL. ADM. CODE	)	R22-
PART 203: MAJOR STATIONARY SOURCES	)	(Rulemaking – Air)
CONSTRUCTION AND MODIFICATION,	)	
35 ILL. ADM. CODE PART 204: PREVENTION	)	
OF SIGNIFICANT DETERIORATION, AND	)	
PART 232: TOXIC AIR CONTAMINANTS	)	

NOTICE OF FILING

TO: Mr. Don A. Brown
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

(See Persons on Attached Service List)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board, **ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S PROPOSAL FOR REGULATIONS OF GENERAL APPLICABILITY (AMENDMENTS TO 35 ILL. ADM. CODE PART 203: MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION, 35 ILL. ADM. CODE PART 204: PREVENTION OF SIGNIFICANT DETERIORATION, AND PART 232: TOXIC AIR CONTAMINANTS),** copies of which are hereby served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

N. LaDonna Driver
Melissa S. Brown
HEPLERBROOM, LLC
4340 Acer Grove Drive
Springfield, Illinois 62711
LaDonna.Driver@heplerbroom.com
Melissa.Brown@heplerbroom.com
(217) 528-3674

CERTIFICATE OF SERVICE

I, Melissa S. Brown, the undersigned, hereby certify that I have served the attached **ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S PROPOSAL FOR REGULATIONS OF GENERAL APPLICABILITY (AMENDMENTS TO 35 ILL. ADM. CODE PART 203: MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION, 35 ILL. ADM. CODE PART 204: PREVENTION OF SIGNIFICANT DETERIORATION, AND PART 232: TOXIC AIR CONTAMINANTS)**, on August 16, 2021, to the following:

Mr. Don A. Brown
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
Don.Brown@illinois.gov

via electronic mail; and upon:

Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
epa.dlc@illinois.gov

via electronic mail and depositing said documents in the United State Mail, proper postage prepaid, in Springfield; and upon:

Division Chief of Environmental Enforcement
Office of the Attorney General
100 West Randolph St., Suite 1200
Chicago IL 60601
enviro@atg.state.il.us

via electronic mail and depositing said documents in a UPS drop box, proper delivery charge prepaid, in Springfield; and upon:

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

via depositing said documents in a UPS drop box, proper delivery charge prepaid, in Springfield.

That my email address is Melissa.Brown@heplerbroom.com.

That the number of pages in the email transmission is 229 total pages.

That the email transmissions, depositing said documents in the United States Mail, and depositing said documents in a UPS drop box, as noted above, took place before 5:00 p.m. on the date of August 16, 2021.

/s/ Melissa S. Brown

Date: August 16, 2021

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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35 ILL. ADM. CODE PART 204: PREVENTION	)	
OF SIGNIFICANT DETERIORATION, AND	)	
PART 232: TOXIC AIR CONTAMINANTS	)	

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[1] Copies of documents with an asterisk beside them have not been provided.

40 CFR Part 63 (2020)*
40 CFR Part 81 (2020)*
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)*

13. Technical Support Document

Respectfully submitted,

ILLINOIS ENVIRONMENTAL REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ENTRY OF APPEARANCE OF N. LADONNA DRIVER

NOW COMES N. LaDonna Driver, of the law firm HEPLERBROOM, LLC, and hereby enters her appearance in this matter on behalf of the ILLINOIS ENVIRONMENTAL REGULATORY GROUP.

Respectfully Submitted,

DATE: August 16, 2021

By: /s/ N. LaDonna Driver

N. LaDonna Driver
HEPLERBROOM, LLC
4340 Acer Grove Drive
Springfield, IL 62711
LaDonna.Driver@heplerbroom.com
(217) 528-3674

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PART 232: TOXIC AIR CONTAMINANTS	)	

ENTRY OF APPEARANCE OF MELISSA S. BROWN

NOW COMES Melissa S. Brown, of the law firm HEPLERBROOM, LLC, and hereby enters her appearance in this matter on behalf of the ILLINOIS ENVIRONMENTAL REGULATORY GROUP.

Respectfully Submitted,

DATE: August 16, 2021

By: /s/ Melissa S. Brown

Melissa S. Brown
HEPLERBROOM, LLC
4340 Acer Grove Drive
Springfield, IL 62711
Melissa.Brown@heplerbroom.com
(217) 528-3674

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OF SIGNIFICANT DETERIORATION, AND	)	
PART 232: TOXIC AIR CONTAMINANTS	)	

CERTIFICATE OF ORIGINATION

The Illinois Environmental Regulatory Group certifies in accordance with 35 Ill. Adm. Code 102.202(i) that its Proposal for Regulations of General Applicability, which proposes to amend 35 Ill. Adm. Code Parts 203, 204, and 232, amends the most recent version of the rules as published on the Illinois Pollution Control Board's website.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

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MOTION FOR WAIVER OF COPY REQUIREMENTS

The Illinois Environmental Regulatory Group ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, hereby moves that the Illinois Pollution Control Board ("Board"), pursuant to 35 Ill. Adm. Code 101.500, 102.202, and 102.402, waive the requirement that IERG provide copies of documents incorporated by reference in its proposal for regulations of general applicability. In support of this motion, IERG states as follows:

1. The Board's procedural rules at 35 Ill. Adm. Code 102.202 require that a proposal for a regulation of general applicability include "any material to be incorporated by reference within the proposed rule pursuant to Section 5-75 of the [Illinois Administrative Procedure Act]." 35 Ill. Adm. Code 102.202(d). Section 27(a) of the Illinois Environmental Protection Act ("Act") also requires that a petitioner provide information supporting a regulatory proposal. 415 ILCS 5/27(a).

2. IERG's proposal incorporates by reference the following documents:

40 CFR Part 51, Subpart I (2019)
40 CFR 51.1006(a)(3) (2019)
40 CFR 52.21 (2020)
40 CFR Part 51, Appendix S (2019)
40 CFR Part 51, Appendix W (2019)
40 CFR Part 60 (2020)
40 CFR Part 61 (2020)
40 CFR Part 62 (2020)
40 CFR Part 63 (2020)

40 CFR Part 81 (2020)
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).

3. The documents listed above consist of several hundred pages. Except for the Standard Industrial Classification Manual, they are all part of the Code of Federal Regulations, are all readily accessible to or are within the possession of the Board, and are all publicly available online on the Government Publishing Office's website at https://www.ecfr.gov/cgi-bin/ECFR?page=browse. The Standard Industrial Classification Manual is also readily accessible and publicly available online at https://www.osha.gov/pls/imis/sic_manual.html. Given the volume and ease of accessibility of the documents listed above, IERG moves that the Board waive the requirement that it provide copies of such documents.

WHEREFORE, for the above and foregoing reasons, the Illinois Environmental Regulatory Group hereby respectfully requests the Illinois Pollution Control Board waive the requirement to provide copies of the aforementioned documents.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

N. LaDonna Driver
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MOTION TO WAIVE REQUIREMENT TO SUBMIT 200 SIGNATURES

The ILLINOIS ENVIRONMENTAL REGULATORY GROUP ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, hereby moves the Illinois Pollution Control Board ("Board") to waive the requirement, pursuant to Section 28(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/28(a), and 35 Ill. Adm. Code 102.202(g), to submit 200 signatures with its Proposal for Regulations of General Applicability ("Proposal"). In support of this Motion to Waive Requirement to Submit 200 Signatures ("Motion"), IERG states as follows:

1. IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce and is comprised of forty-seven (47) member companies that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. IERG was founded in 1985 and is a frequent participant in regulatory development and rulemakings that have the potential to impact businesses in Illinois.

2 IERG was the lead negotiator for the Illinois business community on Senate Bill 1672, which was passed with unanimous bipartisan support by both the House and Senate of the 99th General Assembly, and signed into law as Public Act 99-0463 by Governor Rauner on August 25, 2015. Public Act 99-0463 became effective on January 1, 2016.

3. Public Act 99-0463 amended Section 9.1(c) of the Act as follows, with new language indicated by underscoring and deleted language indicated by strike-out:

> (c) The Board shall ~~may~~ adopt regulations establishing permit programs for PSD and NA NSR permits meeting the respective requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

415 ILCS 5/9.1(c) (emphasis added).

4. Generally, Section 165 of the Clean Air Act ("CAA") governs the Prevention of Significant Deterioration ("PSD") permit program and Section 173 of the CAA governs permitting in nonattainment areas, i.e., the Nonattainment New Source Review ("NA NSR") requirements.

5. On July 2, 2018, the Illinois Environmental Protection Agency ("Agency"), filed a Proposal of Regulations and Statement of Reasons, which the Board docketed as R2019-001, with regard to the PSD permit program ("PSD Proposal"). The Agency's PSD Proposal is designed to meet the requirements relating to Section 165 of the CAA. The Board adopted the PSD regulations at 35 Ill. Adm. Code 204 on August 27, 2020. *See* Final Opinion and Order, *Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, Amendments to 35 Ill. Adm. Code Parts 101, 105, 203, 211, and 215*, PCB R 19-1 (Ill.Pol.Control.Bd. August 27, 2020).

6. The Agency's PSD Proposal does not include provisions relating to Section 173 of the CAA. In its PSD Proposal, in footnote 45 at page 28, the Agency explains its rationale for not addressing NA NSR:

> This legislation also mandated that the Board adopt NaNSR regulations. However, using its existing discretionary authority, the Board had already adopted such regulations at 35 Ill. Adm. Code Part 203 in 1983.

Statement of Reasons, PCB R 19-1 at 28.

7. The Board's NA NSR rules were last updated in March 1998. The federal New Source Review rules have been significantly amended since that time. While the Board's PSD

rules include these updates relating to the PSD permit program that were in effect at the time Part 204 was adopted, the Board's NA NSR rules have not yet been revised to reflect the updates. IERG is proposing to amend the Board's NA NSR rules at 35 Ill. Adm. Code 203 to make them consistent and up-to-date with the underlying federal regulations. The proposal also proposes to amend Parts 204 and 232 to address cross-references to Part 203 and fix certain errors. Additionally, the proposal proposes to amend Part 204 to address the relationship between the PSD rules and the provisions in proposed Part 203 which apply to new major stationary sources or major modifications located in attainment and unclassifiable areas. Lastly, the proposal proposes to amend Part 204 to include a recent update to the federal New Source Review rules, which was adopted after Part 204 was adopted by the Board.

8. Attached to this Motion is IERG's Proposal for Regulations of General Applicability.

9. Section 28(a) of the Act provides, in pertinent part, as follows:

> Sec. 28. Proposal of regulations; procedure.
> (a) Any person may present written proposals for the adoption, amendment, or repeal of the Board's regulations, and the Board may make such proposals on its own motion. If the Board finds that any such proposal is supported by an adequate statement of reasons, is accompanied by a petition signed by at least 200 persons, is not plainly devoid of merit and does not deal with a subject on which a hearing has been held within the preceding 6 months, the Board shall schedule a public hearing for consideration of the proposal. If such proposal is made by the Agency or by the Department, the Board shall schedule a public hearing without regard to the above conditions. The Board may hold one or more hearings to consider both the merits and the economics of the proposal. ***The Board may also in its discretion schedule a public hearing upon any proposal without regard to the above conditions.***

415 ILCS 5/28(a) (emphasis added).

10. IERG requests that the Board waive the 200-signature requirement in Section 28(a) of the Act and in 35 Ill. Adm. Code 102.202(g).

11. Because of IERG's status as a member organization, requiring IERG to obtain the signatures for a petition would present an added expense and burden to IERG that is duplicative and unnecessary in light of its status.

12. Granting this Motion is clearly within the Board's discretion to schedule a public hearing without regard to the 200-person signature condition based on the last sentence of Section 28(a). The Board has waived signature requirements in other rulemakings in the past. *See In the Matter of: Proposed Amendments to the Board's Special Waste Regulations Concerning Used Oil*, 35 Ill. Adm. Code 739, 808, 809, PCB R 06-20(A) (Ill.Pol.Control.Bd. Jan. 5, 2006); *see In the Matter of: Proposed Amendments to Dissolved Oxygen Standard 35 Ill. Adm. Code 302.206*, PCB R 04-25 (Ill.Pol.Control.Bd. May 6, 2004); *see In the Matter of: Proposed Amendments to Ammonia Nitrogen Standards 35 Ill. Adm. Code 302.100, 302.212, 302.213, and 304.122*, PCB R 02-19 (Ill.Pol.Control.Bd. Jan. 24, 2002).

WHEREFORE, for the above and foregoing reasons, the Illinois Environmental Regulatory Group hereby respectfully requests the Illinois Pollution Control Board waive the requirement to submit 200 signatures in support of its Proposal for Regulations of General Applicability.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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OF SIGNIFICANT DETERIORATION, AND	)	
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ILLINOIS ENVIRONMENTAL REGULATORY GROUP'S
PROPOSAL FOR REGULATIONS OF GENERAL APPLICABILITY

STATEMENT OF REASONS

I. INTRODUCTION

The Illinois Environmental Regulatory Group ("IERG"), by and through its attorneys, HEPLERBROOM, LLC, submits this Proposal for Regulations of General Applicability ("Proposal") and Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 9.1, 10, 27 and 28 of the Environmental Protection Act ("Act") (415 ILCS 5/9.1, 10, 27 and 28) and 35 Ill. Adm. Code 102.200 and 102.202. This Statement of Reasons is submitted in support of amending 35 Ill. Adm. Code Part 203, Major Stationary Sources Construction and Modification, 35 Ill. Adm. Code Part 204, Prevention of Significant Deterioration, and 35 Ill. Adm. Code Part 232, Toxic Air Contaminants.

IERG is an Illinois non-profit corporation affiliated with the Illinois Chamber of Commerce and is comprised of forty-seven (47) member companies that are regulated by governmental agencies that promulgate, enforce, or administer environmental laws, rules, regulations, or other policies. IERG was founded in 1985 and is a frequent participant in regulatory development and rulemakings that have the potential to impact businesses in Illinois.

IERG submits this Proposal to amend the Board's Nonattainment New Source Review ("NA NSR") regulations to be up-to-date and consistent with the Clean Air Act ("CAA") and implementing federal regulations. In 2015, IERG was the lead negotiator for the Illinois business community on Senate Bill 1672, which proposed to amend Section 9.1(c) of the Act. Senate Bill 1672 was passed with unanimous bipartisan support by both the House and Senate of the 99th Illinois General Assembly. This bill became law as Public Act 99-0463, which took effect on January 1, 2016. Public Act 99-0463 amended, in part, Section 9.1(c) of the Act as follows:

> (c) The Board shall ~~may~~ adopt regulations establishing permit programs for PSD and NA NSR permits meeting the respective requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

Public Act 99-0463. A copy of Public Act 99-0463 is attached in its entirety as Exhibit 1 to this Proposal.

Section 9.1(c) of the Act states that the Board shall adopt regulations establishing permit programs for Prevention of Significant Deterioration ("PSD") and NA NSR that meet the respective federal requirements in Sections 165 and 173 of the CAA, 42 U.S.C. §§ 7474 and 7503. 415 ILCS § 5/9.1(c). In 2018, the Illinois Environmental Protection Agency ("Agency" or "Illinois EPA") filed a Proposal of Regulations and Statement of Reasons with regard to the Prevention of Significant Deterioration Permit Program ("PSD Proposal"). *See* Statement of Reasons, *Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, Amendments to 35 Ill. Adm. Code Parts 101, 105, 203, 211, and 215*, PCB R 19-1 (Ill.Pol.Control.Bd. July 2, 2018). This rulemaking resulted in 35 Ill. Adm. Code 204, which became effective on September 4, 2020. Final Opinion and Order, PCB R 19-1 (Aug. 27, 2020).

IERG's Proposal and Part 204 differ in that Part 204 created a new state PSD program, whereas Illinois already has an established NA NSR program at 35 Ill. Adm. Code Part 203. IERG is proposing amendments to Illinois' NA NSR program to make the program consistent with the CAA and implementing federal regulations.

The changes to Section 9.1(c) of the Act per Public Act 99-0463 must be read consistently with the stated purpose and intent of Section 9.1(a) of the Act that the Board avoid the existence of duplicative, overlapping or conflicting State and federal regulatory systems. *See* 415 ILCS 5/9.1(a). To assist in meeting this requirement, IERG's Proposal herein addresses the updates included in amendments to the federal regulations since the last revision of Illinois' NA NSR program. As explained in more detail below, Part 203 was adopted in 1983, amended several times, with the most recent amendments adopted in 1998. Significant amendments to the federal NA NSR requirements have been made since that time and IERG's Proposal would address these amendments, making the Board's NA NSR rules consistent with the CAA and underlying federal regulations.

If IERG's NA NSR Proposal is adopted, Parts 203 and 204 will be up-to-date with the federal regulations and will conform with Section 9.1 of the Act's requirement to adopt regulations that avoid the existence of duplicative, overlapping or conflicting State and federal regulatory systems. Additionally, because the Agency and sources often rely on United States Environmental Protection Agency ("USEPA") guidance[1] when interpreting and implementing federally derived programs, updating the Board's NA NSR regulations will bolster consistency

[1] *See* Testimony of Chris Romaine, November 27, 2018 Hearing Transcript, PCB R 19-1, at 50:19, 64:24, 65:8, and 105:1. (Ill.Pol.Control.Bd. Dec. 4, 2018).

in the application of USEPA's guidance documents to the benefit of the Agency, the regulated community, and interested third parties.

II. STATEMENT OF FACTS

A. Background on the Federal NA NSR Program

The CAA requires USEPA to designate areas, within each state, based on existing air quality on a pollutant-by-pollutant basis as either being in attainment, unclassifiable, or nonattainment with the National Ambient Air Quality Standards ("NAAQS"). 42 U.S.C. § 7407(d). The CAA requires USEPA to set NAAQS for certain pollutants at levels necessary to protect the public health and welfare. *Id*. at § 7409(b). USEPA has promulgated NAAQS for six principal pollutants: ozone (O_3), carbon monoxide (CO), sulfur dioxide (SO_2), particulate matter ($PM_{2.5}$ and PM_{10}), lead (Pb), and nitrogen dioxide (NO_2). Additionally, volatile organic material (VOM) and nitrogen oxides (NO_X) are precursors of ozone, and SO_2, NO_X, VOM, and ammonia (NH_3) are precursors of $PM_{2.5}$. An attainment area is an area where the air quality meets the NAAQS for a specific pollutant, and a nonattainment area is an area where the air quality does not meet the NAAQS for a specific pollutant. *Id*. at §§ 7407(d)(i)-(ii). An unclassifiable area is an area that cannot be classified as meeting or not meeting the NAAQS for a specific pollutant. *Id*. at § 7407(d)(iii). Unclassifiable areas are treated in the same manner as attainment areas for purposes of NSR.

The NA NSR program, under Part D of Title 1 of the CAA, applies to construction and modification of certain pollutant-emitting facilities located in or near areas designated as nonattainment for a pollutant for which the area has been designated nonattainment, or for which the construction or modification would cause or contribute to a NAAQS violation, and/or the precursor(s) for that pollutant. *See* 40 CFR § 51.165 and Part 51, Appendix S. The NA NSR

program applies to major stationary sources which emit or could have the potential to emit ("PTE") an air pollutant for which the area is nonattainment in quantities at or above the applicable threshold. Determination of PTE is discussed in detail in Section I of the Technical Support Document for IERG's Proposal ("TSD"), which is contemporaneously filed with this Proposal.

Generally, NA NSR permitting is required when a major stationary source is initially constructed or when it would significantly increase regulated NSR pollutant emissions as a result of a proposed project. The NA NSR program authorizes the proposed changes for sources located in a nonattainment area as long as they comply with the control technology requirements (lowest achievable emission rate ("LAER")) and the permit applicant provides for reductions from existing sources to improve the air quality in the area (i.e., "offsets"). The permit applicant must also demonstrate that it complies, or will comply, with applicable state and federal air pollution control requirements. Additionally, the permit applicant must conduct an alternatives analysis including potential sites, processes and control techniques for the proposed project. The permitting process must provide the public an opportunity to comment on the proposed construction or modification before issuance of a final permit. The TSD to IERG's Proposal explains in detail the main requirements of the NA NSR program. TSD, Sections I and V.

The NA NSR program also contains requirements for a new major stationary source or major modification located in an attainment or unclassifiable area which would cause or contribute to a violation of any NAAQS. Significant impact levels are used to determine whether such source or modification would cause or contribute to a NAAQS violation. For a major stationary source or major modification that would cause or contribute to a NAAQS violation, in order to obtain a permit under proposed Part 203, the owner or operator must reduce

the impact of the proposed emissions increase on air quality by obtaining sufficient emissions reductions to compensate for the adverse ambient impact. *See* TSD, Section VI.

B. History of NA NSR Regulations and Significant Amendments

USEPA promulgated the Emission Offset Interpretative Ruling ("Interpretative Rule") in 1976 to address permitting in nonattainment areas. "Air Quality Standards; Interpretative Ruling," 41 Fed. Reg. 55524 (Dec. 21, 1976).[2] At the time the Interpretative Rule was promulgated, the CAA did not contain requirements for designation of nonattainment areas. Offsetting emissions increases and meeting LAER were main requirements of the Interpretative Rule.

The CAA was amended in 1977 to include requirements that substantially paralleled the requirements under the Interpretative Rule. USEPA then codified revisions to the Interpretative Rule at 40 CFR Part 51 Appendix S which served as the foundation for the federal NA NSR program ("Appendix S"). These revisions to Appendix S also added the significant impact levels ("SILs") used to determine whether a new major source or major modification that would locate in an attainment or unclassifiable area would cause or contribute to a violation of any NAAQS. "Part 51 – Requirements for Preparation, Adoption and Submittal of Implementation Plans: Emission Offset Interpretative Ruling," 44 Fed. Reg. 3274 (Jan. 16, 1979). Appendix S is still used today to set forth a NA NSR program to be implemented in nonattainment areas that are not yet covered by an approved Part D State Implementation Plan ("SIP") (Part D of Title I of the CAA addresses plan requirements for nonattainment areas) or where construction or modification of a major stationary source would cause or contribute to a NAAQS violation and such construction or modification would not be covered by an approved Part D SIP. Appendix S

[2] Federal Registers are publicly available online at https://www.govinfo.gov/app/collection/FR.

can be implemented by a State to issue NA NSR permits in the absence of an approved Part D SIP.

In the early 1980s, USEPA codified a "blueprint" rule at 40 CFR § 51.18(j)-(k) that established minimum requirements for State air pollution control authorities to develop a SIP to implement NA NSR programs covering all nonattainment areas in their jurisdiction and to regulate major stationary sources that would cause or contribute to a NAAQS violation ("Part D SIP"). "Requirements for Preparation, Adoption, and Submittal of SIPs; Approval and Promulgation of State Implementation Plans," 45 Fed. Reg. 31307 (May 13, 1980); "Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans," 45 Fed. Reg. 52676 (Aug. 7, 1980). To implement § 123 of the CAA as amended in 1977, USEPA also promulgated a rule restricting the consideration of excessive stack height or other dispersion techniques for purposes including determination of whether a major stationary source would cause or contribute to a NAAQS violation. This rule was codified at 40 CFR § 51.18(l). "Stack Height Regulations," 47 Fed. Reg. 5864 (Feb. 8, 1982).

In 1986, the stack height rule was recodified at 40 CFR § 51.164 and the blueprint rule was restructured and recodified at 40 CFR § 51.165. "Air Quality Implementation Plans; Restructuring SIP Preparation Regulations," 51 Fed. Reg. 40656 (Nov. 7, 1986). In 1987, the Illinois EPA proposed, and in 1988 the Board adopted, revisions to 35 Ill. Adm. Code Part 203 for the purpose of obtaining approval of Illinois' NA NSR rules as part of the Illinois SIP. Final Opinion and Order, *In the Matter of: Proposed Amendments to 35 Ill. Adm. Code Part 203*, PCB

R 85-20 (Ill.Pol.Control.Bd. March 10, 1988).[3] The Board's NA NSR rules were ultimately approved into the Illinois SIP in 1992. "Approval and Promulgation of Implementation Plans; Illinois," 57 Fed. Reg. 59928 (Dec. 17, 1992).

In 1987, a provision was added to the blueprint rule allowing a proposed major source or major modification that would cause or contribute to a NAAQS violation to reduce the impact of its emissions by obtaining emission reductions to compensate for its adverse ambient impact. *See, e.g.,* "Regulations for Implementing Revised Particulate Matter Standards," 52 Fed. Reg. 24672 (July 1, 1987).

The CAA was significantly amended in 1990 ("1990 CAA Amendments"). The 1990 CAA Amendments created the classification scheme for ozone and PM_{10} nonattainment areas, and tailored deadlines and control measure requirements to each area's classification. For NA NSR, the 1990 CAA amendments required lower major source thresholds and higher offset ratios for ozone and established NO_X as an ozone precursor. Additionally, the 1990 CAA amendments established a lower threshold for serious PM_{10} nonattainment areas and required regulation of PM_{10} precursors.

In 1992, the Illinois EPA proposed to amend Part 203 to address NA NSR permitting consistent with the 1990 CAA Amendments. Final Opinion and Order, *In the Matter of: Amendments to the New Source Review Rules 35 Ill. Adm. Code 203*, PCB R 92-21 (Ill.Pol.Control.Bd. April 22, 1993). The amendments to Part 203 were adopted in April 1993. *Id*.; *see also In the Matter of Amendments to the New Source Review Rules 35 Ill. Adm. Code 203*, PCB R 93-26 (Ill.Pol.Control.Bd. March 31, 1994) (correcting error in provision regarding

[3] NSR rules in Illinois were first proposed in 1979; however, such rules were ultimately not approved by USEPA. Proposed Opinion and Order, First Notice, PCB R 85-20, at 77-419 to 77-420 (Apr. 30, 1987). A revised NSR proposal was submitted in 1980 and adopted by the Board in 1983, but was also ultimately disapproved by USEPA. *See id*.

significant emissions determination). USEPA approved the revision to Illinois' NA NSR regulations into the SIP on September 27, 1995 for the purpose of meeting requirements of the 1990 CAA Amendments with regard to NA NSR. "Final Promulgation of Revisions to the New Source Review State Implementation Plan; Illinois," 60 Fed. Reg. 49778 (Sept. 27, 1995).[4]

In 1997, the Illinois EPA proposed, and in 1998 the Board adopted, revisions to Part 203 to incorporate additional requirements concerning the NA NSR construction permitting program and, in particular, offset requirements and requirements for serious and severe ozone nonattainment areas, to implement the language of Section 182(c) of the CAA. Final Opinion and Order, *In the Matter of: Major Stationary Sources Construction and Modification (New Source Review Rules): Amendments to 35 Ill. Adm. Code 203*, PCB R 98-10 (Ill.Pol.Control.Bd. March 5, 1998). On May 13, 2003, USEPA approved the revisions to the NA NSR rules submitted by Illinois EPA in 1998. "Approval and Promulgation of Implementation Plan; Illinois New Source Review Amendments," 68 Fed. Reg. 25504 (May 13, 2003). Throughout the rulemakings discussed above, the Board's NA NSR rules were revised consistent with the 1990 CAA Amendments, as opposed to the underlying federal regulations which had not yet been updated to reflect the amendments.

In December 2002, USEPA promulgated revisions to the blueprint rule including, as discussed in part below, provisions concerning baseline actual emissions, actual-to-projected-actual emissions methodology, and plantwide applicability limitations, as well as provisions concerning clean units and pollution control projects. "Prevention of Significant Deterioration

[4] In 1993, the Agency proposed and the Board adopted additional amendments to Part 203, as well as Parts 218 and 219, to address corrections to the existing RACT rules for controlling emissions of volatile organic material ("VOM") in ozone nonattainment areas consistent with the 1990 CAA Amendments. Final Opinion and Order, *In the Matter of Omnibus Cleanup of the Volatile Organic Material RACT Rules Applicable to Ozone Nonattainment Areas: Amendments to 35 Ill. Adm. Code Parts 203, 211, 218 and 219*, PCB R 93-9 (Ill.Pol.Control.Bd. Sept. 9, 1993).

(PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects," 67 Fed. Reg. 80186 (Dec. 31, 2002) ("2002 Rule").[5] The 2002 Rule included revisions to PSD and NA NSR applicability criteria for modifications, but did not change the control requirements for major NSR permitting (LAER, etc.). The 2002 Rule also introduced plantwide applicability limitations ("PALs"). A PAL restricts all emissions of a particular regulated NSR pollutant from a subject source. If the source's actual emissions of the pollutant after a proposed project will remain below the applicable PAL, the project is not a major modification. The 2002 Rule also modified how to determine whether emissions at existing sources will increase by expressly allowing the use of projected actual emissions. Under such approach, where there is a reasonable possibility that a project may result in a significant increase of a regulated NSR pollutant, a source is subject to recordkeeping and reporting requirements. While the Board's PSD rule in Part 204 reflects the 2002 Rule as it relates to the PSD permit program, the Board's NA NSR rules have not yet been revised to reflect these updates relating to nonattainment areas.

Additionally, USEPA made several clarifying amendments to the blueprint rule and Appendix S regulations between 2007 and 2009. *See* "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Removal of Vacated Elements, 72 Fed. Reg. 32526 (June 13, 2007) (amending regulations to eliminate pollution control project and clean unit provisions consistent with *New York v. EPA*, 413 F.3d 3 (D.C. Cir. 2005)); "Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping," 72 Fed. Reg. 72607 (Dec. 21, 2007) (clarifying the "reasonable

[5] The 2002 Rule amendments to the blueprint rule were subsequently made to Appendix S in 2007. "Nonattainment New Source Review (NSR)," 72 Fed. Reg. 10367 (Mar. 8, 2007).

possibility" recordkeeping and reporting standard of the 2002 Rule); "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting," 74 Fed. Reg. 2376 (Jan. 15, 2009) (clarifying "three aspects of the NSR program – aggregation, debottlenecking, and project netting – that pertain to how to determine what emissions increases and decreases to consider in determining major NSR applicability for modified sources."). Because the most recent revisions to Part 203 were adopted by the Board in 1998, Part 203 has not been updated to incorporate the revisions made in the 2002 Rule or the subsequent amendments to the blueprint rule and Appendix S regulations discussed above.

In 2005, USEPA finalized revisions to the blueprint rule and Appendix S, codifying major stationary source thresholds, significant emission rates, and offset ratios for the 8-hour ozone, CO, and PM_{10} NAAQS per the 1990 CAA Amendments. "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline," 70 Fed. Reg. 71612 (Nov. 29, 2005). Most of these changes had already been incorporated by the Board into Part 203 in the rulemakings discussed above consistent with the 1990 CAA Amendments.[6] The 2005 rule also revised the blueprint rule requirements regarding emissions reductions achieved from shutdowns or curtailments. Part 203 has not been amended to reflect the revisions regarding emissions reductions from shutdowns or curtailments.

[6] As to changes that had not been incorporated into Part 203, existing Part 203 does not include the significant emission rates provisions concerning CO in serious CO nonattainment areas. *See* existing 35 Ill. Adm. Code 203.209. Part 203 also does not include the blueprint rule or Appendix S provisions concerning ozone transport regions, as Illinois is not located in the ozone transport region.

In 2008, USEPA revised the blueprint rule and Appendix S provisions governing $PM_{2.5}$ and its precursors. "Implementation of the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers," 73 Fed. Reg. 28321 (May 16, 2008). This revision finalized requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation, including the requirement that NSR permits address $PM_{2.5}$ precursors. The 2008 rule also identified SO_2 and NO_X as precursors to $PM_{2.5}$. *Id.* Additionally, the rulemaking provided that condensable PM (i.e., PM that is formed when gases condense at ambient temperatures) was to be included as part of emissions measurements for regulation of $PM_{2.5}$ and PM_{10}. *Id.*; *see also* "Implementation of the New Source Review Program for Particulate Matter Less than 2.5 Micrometers: Amendment to the Definition of 'Regulated NSR Pollutant' Concerning Condensable Particulate Matter," 77 Fed. Reg. 65107 (Oct. 25, 2012) (clarifying the condensable particulate matter must be accounted for in applicability determinations and in establishing emissions limitations for PM_{10} and $PM_{2.5}$).[7]

Part 203 has not been amended to reflect the $PM_{2.5}$ requirements. Illinois EPA has been implementing the $PM_{2.5}$ requirements through the Appendix S procedures. "Review of Illinois Environmental Protection Agency's New Source Review and Title V Permit Programs, 2017 Evaluation Final Report," USEPA, Region 5, Air & Radiation Division (September 2017)[8], pp.15-16 ("For purposes of NA NSR permitting for $PM_{2.5}$, until the completion of these revisions,[9] IEPA will continue to rely on Appendix S to 40 C.F.R. Part 51 – Emission Offset Interpretative Ruling – to ensure that emissions of $PM_{2.5}$ and precursors from the construction

[7] Pursuant to *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), requirements applicable to PM_{10}, including the classification scheme, apply to $PM_{2.5}$ as well.
[8] This report is publicly available online on USEPA's website at https://www.epa.gov/caa-permitting/illinois-title-v-and-nsr-program-evaluation.
[9] It is IERG's understanding that Illinois EPA at one point intended to propose a rulemaking to incorporate the $PM_{2.5}$ NA NSR permitting requirements; however, such proposal was never filed.

and modification of stationary sources do not cause or contribute to a violation of the $PM_{2.5}$ NAAQS.").

In 2010, USEPA amended the blueprint rule and Appendix S regulations to establish Significant Impact Levels ("SILs") for $PM_{2.5}$, which are used to determine whether emissions from a major stationary source or major modification will be considered to cause or contribute to a violation of a NAAQS. "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)," 75 Fed. Reg. 64864 (Oct. 20, 2010). Furthermore, in 2016, USEPA issued a final rule revising the blueprint rule and Appendix S regulations to require that volatile organic compounds ("VOC" also known as volatile organic material ("VOM")) and ammonia be regulated as precursors to $PM_{2.5}$. "Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements," 81 Fed. Reg. 58010 (Aug. 24, 2016). Similar to the $PM_{2.5}$ requirements discussed above, these changes have not yet been incorporated into Part 203.

On November 24, 2020, USEPA amended the blueprint rule and Appendix S regulations to clarify the requirements for determining whether a proposed project constitutes a major modification. "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting, 85 Fed. Reg. 74890 (Nov. 24, 2020). The amendments finalized prior USEPA guidance. *See id*. at 74891 ("Project Emissions Accounting under the New Source Review Preconstruction Permitting Program," Letter from Scott Pruitt, March 13, 2018). In particular, the amendments clarified that both increases and decreases in emissions resulting from a proposed project are considered in determining whether the proposed project would result in a significant emissions increase (i.e., Step 1 of the major modification

applicability test). These amendments, known as the Project Emissions Accounting Rule, became effective on December 24, 2020, and have not yet been incorporated into Part 203. Petitions for review have been filed challenging the amendments.

On July 19, 2021, USEPA finalized amendments to the blueprint rule and Appendix S regulations that corrected a number of non-substantive errors and made conforming changes to address the 1990 CAA Amendments. "New Source Review Regulations; Correction," 86 Fed. Reg. 37918 (July 19, 2021). The amendments are known as the Error Corrections Rule. The amendments correct typographical and spelling errors, remove court vacated rule language, update outdated cross-references, and conforms provisions to changes contained in the 1990 CAA Amendments.

As noted above, because the most recent revisions to Part 203 were adopted by the Board in 1998, Part 203 has not been updated to incorporate the subsequent revisions made to the blueprint rule or Appendix S regulations discussed above.

C. 2015 Legislation

Part 203 was first adopted by the Board in the 1980s, and it has been amended a number of times up to and including March 10, 1998, the last time the NA NSR regulations were updated. As discussed above, Section 9.1(c) of the Act was amended in 2015. Subsections 9.1(a) and (c) of the Act direct the Board to adopt regulations establishing permit programs for PSD and NA NSR permits consistent with the respective requirements of Sections 165 and 173 of the CAA (42 USC §§ 7475 and 7503) as amended, while also instructing the Board to avoid the existence of duplicative, overlapping, or conflicting State and federal regulatory systems.

With regard to the NA NSR permit program specifically, the Board's permissive authority ("may") to adopt a NA NSR permit program was converted to a mandate ("shall") to

do so. Additionally, the mandate is to establish a permit program for NA NSR permits consistent with the federal requirements, while complying with the Section 9.1(a) instruction to avoid "the existence of duplicative, overlapping, or conflicting State and federal regulatory systems." 415 ILCS 5/9.1.

In 2018, the Agency submitted a PSD Proposal to the Board, which proposed the adoption of regulations establishing an Illinois PSD permit program, to meet its obligations under amended Section 9.1(c) of the Act. Statement of Reasons, PCB R 19-1 (July 2, 2018). The Agency's PSD Proposal was based largely on the CAA's implementing regulations for PSD at 40 CFR § 52.21, and aimed to ensure that the proposed PSD program meets the requirements for a SIP submittal to USEPA in 40 CFR 51.166. *Id*. at 28-29. The Agency's PSD Program was adopted by the Board on August 27, 2020, with an effective date of September 4, 2020. Final Opinion and Order, PCB R 19-1 (Aug. 27, 2020).

Conversely, prior to the amendments to Section 9.1(c) of the Act, Illinois already had an established NA NSR permitting program at 35 Ill. Adm. Code Part 203. Part 203 was adopted in the 1980s to meet the requirements of Section 173 of the CAA. As such, the Agency's PSD Proposal did not include NA NSR provisions that apply to sources located in areas designated nonattainment. Statement of Reasons, PCB R 19-1 at 28, fn. 45 (July 2, 2018).

Significant changes to the federal NA NSR regulations have been made that have not been incorporated into Illinois' rules at Part 203. Pursuant to the underlying purpose of Section 9.1 of the Act, IERG's Proposal intends to make the Board's NA NSR regulations in Part 203 consistent and up-to-date with the CAA and federal NA NSR regulations.

III. IERG'S REGULATORY PROPOSAL

A. Amendments to 35 Ill. Adm. Code Part 203

IERG is proposing to amend existing 35 Ill. Adm. Code Part 203 to update the rules to make them consistent and current with the CAA and federal NA NSR program. Not having been updated since 1998, the Board's NA NSR rules do not include significant amendments to the federal NSR program as discussed above.

IERG's proposed amendments to Part 203 include substantive revisions, deletion of obsolete provisions, and revisions to the structure and organization of the NA NSR requirements. Because the proposed revisions are numerous and ultimately reflect a comprehensive update to Part 203, IERG opted to propose its amendments as new subparts to Part 203, instead of amending the current provisions of Part 203. More specifically, IERG proposes that the Board adopt new Subparts I through R and sunset the old subparts (Subparts A through H) of Part 203 upon USEPA approval of the new subparts as a revision to the Illinois SIP, with one exception. *See* proposed 35 Ill. Adm. Code 203.100. The exception to this transition provision is that IERG proposes that the effective date of proposed Subpart I is not dependent on approval of proposed Section 203.1340(c)(3) by USEPA as a revision to the Illinois SIP. *See id*. Proposed Section 203.1340 is the definition of "regulated NSR pollutant" and subparagraph (c)(3) concerns VOM and ammonia as precursors to $PM_{2.5}$ in a $PM_{2.5}$ nonattainment area.

Most of the same concepts in existing Part 203 remain in IERG's proposed new subparts, but are updated to be consistent with the federal NA NSR rules. In drafting the proposed new subparts, IERG started with the language of the federal blueprint rule at 40 CFR § 51.165. IERG then added provisions or language from Appendix S (40 CFR Part 51, Appendix S), where such concepts were not sufficiently addressed in the blueprint rule. IERG retained certain concepts

and wording from existing Part 203 for consistency with the current NSR program, where doing so does not conflict with federal requirements. In certain instances, IERG modified language to mirror corresponding provisions in the PSD Program at Part 204, where there were insignificant wording differences between the two programs. Where possible, IERG then organized the provisions consistent with the PSD Program at Part 204. IERG believes that it will be beneficial to the Agency, the regulated community, and the public to have consistent wording and organizational structures for similar provisions in the PSD and NA NSR regulations. This is especially so since a source can be subject to both the PSD program in Part 204 and the NA NSR program in Part 203.

To aid participants in this rulemaking, IERG created a spreadsheet that lists all of the provisions in proposed new Subparts I through R and provides the underlying regulation that is the basis for each provision (i.e., the blueprint rule, Appendix S, existing Part 203, or Part 204). This spreadsheet is attached hereto as Exhibit 2 and is incorporated herein ("Rule Spreadsheet").[10] A separate table is included at the end of the Rule Spreadsheet, which addresses the provisions from the blueprint rule that are not included in proposed Part 203.

[10] The Rule Spreadsheet (Exhibit 2) includes a column that provides an explanation of the similarities and differences between the proposed Part 203 provisions and the federal or state rules upon which the proposed provisions are based. The following are examples of some of the language used in the spreadsheet, and the intended meaning of each: (i) "Same as federal language" means that the language of the proposed provision is the same as the language in the federal rule, except for very minor differences (e.g., abbreviations, "Agency" instead of "delegated authority" or "state," cross-references to proposed Part 203 provisions instead of cross-references to federal provisions, etc.). (ii) "Similar to federal language" means that the language of the proposed provision (or portions thereof) is similar to the federal language, but is not the exact same language and/or structure. (iii) "Consistent with federal language" means that the language of the proposed provision is worded or structured differently than the federal language, or existing state language is used (as noted), but the proposed requirement is still consistent with the federal requirement. (iv) "Based on federal language/requirement" means that the proposed language is original language or uses existing state language (as noted) but the federal requirement is still the primary basis for the proposed provision.

To further aid the Board in its review of IERG's Proposal, IERG provides a subpart-by-subpart roadmap to its proposed revisions to Part 203 below.[11] Within the below discussion, IERG addresses the substantive differences between the proposed rules and the origin of the provisions. Additional discussions on substantive differences between the proposed rules and the origin of the provisions are provided in the TSD. Other differences in language are addressed in Exhibit 2, Rule Spreadsheet, as explained above.

1. Subpart I: General Provisions

Subpart I contains the general provisions for Part 203, including provisions concerning incorporations by reference, abbreviations and acronyms used, and severability of provisions. Subpart I also contains the definitions of the terms used in proposed Part 203, except for those terms used only in proposed Subpart Q concerning PALs. Subpart Q contains additional definitions applicable to PALs. The majority of the definitions contained in existing Part 203 are included in proposed Subpart I, with some revisions based on consistency with the blueprint rule and the PSD Program in Part 204. Additional definitions are included in Subpart I consistent with the blueprint rule and 40 CFR § 51.100.

As seen in Exhibit 2, Rule Spreadsheet, the majority of the definitions were taken directly from the blueprint rule and/or existing Part 203. In other instances, some changes were made to the language used in the blueprint rule or the language carried over from existing Part 203. These instances are discussed below.

[11] As discussed above, IERG's Proposal sunsets the old subparts of Part 203 (existing Subparts A – H) upon USEPA approval of IERG's proposed amendments as a revision to the SIP, with one exception. *See* proposed 35 Ill. Adm. Code 203.100 ("Effective Dates"). Upon USEPA approval of proposed Subparts I – R, with the exception of proposed Section 203.1340(c)(3), proposed Subparts I through R will become effective. In the subpart-by-subpart discussion herein, IERG uses "existing Part 203" to reference the rules currently in effect under Part 203 and uses "Part 203," "proposed Part 203," or for example "proposed Section 203.100," when referencing IERG's proposed revisions to Part 203 (i.e., Subparts I through R).

The definition of "actual emissions" in proposed Section 203.1040 is based on the blueprint rule, but language was added to clarify the demonstration by the applicant for use of a different time period for determining actual emissions. The language clarifies that the demonstration may include operating records or other documentation of events or circumstances indicating that the preceding 24-month period is not representative of normal source operations. This added language is consistent with the "actual emissions" definition in existing Part 203. *See* 35 Ill. Adm. Code 203.104. Section IV of the TSD contains additional discussion on the definition of "actual emissions."

The definition of "building, structure, facility, or installation" in proposed Section 203.1090 is consistent with the blueprint rule. IERG did not carry over the portion of the definition of "building, structure, and facility" in existing Section 203.112(b)(1)-(2), as follows:

> b) The terms "building", "structure", and "facility" shall also include:
>
> 1) the transfer of materials, including but not limited to grain, gasoline, petroleum liquids, coal, fertilizer, crushed stone and ore, from vessels, motor vehicles or other conveyances, irrespective of ownership or industrial grouping, to or from a building, structure, or facility as defined in subsection (a) above, and
>
> 2) activities at or adjacent to such building, structure or facility which are associated with such transfer, including but not limited to the operating of engines to provide heat, refrigeration or lighting, operation of auxiliary engines for pumps or cranes, and transfer of materials from hold to hold or tank to tank during onloading or offloading operations except those activities causing emissions resulting directly from internal combustion engines from transportation purposes or from a non road engine or non road vehicle as defined in Section 216 of the Clean Air Act (42 U.S.C. 7401 et seq.).

35 Ill. Adm. Code 203.112(b). IERG did not include this language since it is not contained in the federal blueprint rule. The definition as proposed in IERG's Proposal is also consistent with the definition of "building, structure, facility, or installation" in the PSD Program at 35 Ill. Adm.

Code 204.290. While the language from existing Section 203.112(b)(1)-(2), shown above, is not in IERG's Proposal, it is IERG's understanding that, consistent with historical interpretation, such activities are still considered to fall under the definition of "building, structure, facility, and installation" as proposed.

Further, the definition of "commence" in proposed Section 203.1100 is consistent with the blueprint rule. IERG did not include the following language from existing definition of "commence" in Section 203.113(c) because it is not in the federal blueprint rule or Part 204:

> c) For purposes of this Section, a "reasonable time" shall be determined considering but not limited to the following factors: The nature and size of the project, the extent of design engineering, the amount of off-site preparation, whether equipment can be fabricated or can be purchased, when the project begins (considering both the seasonal nature of construction activity and the existence of other projects competing for construction labor at the same time, the place of the environmental permit in the sequence of corporate and overall governmental approval), and the nature of the permittee (private, public, regulated, etc.).

35 Ill. Adm. Code 203.113(c).

The definition of "commence" is included in IERG's Proposal solely for the purpose of proposed Section 203.1430 concerning relaxation of a source-specific limitation. Consistent with the federal rules, a new definition of "begin actual construction" is included in IERG's Proposal and is the operative phrase for the Part 203 prohibitions. *See, e.g.,* proposed 35 Ill. Adm. Code 203.1440(b) ("In any nonattainment area, no person shall begin actual construction of a new major stationary source or major modification . . . except as in compliance with this Subpart and Subpart N. . . ."); *see also* proposed 35 Ill. Adm. Code 203.2500(a). Further discussion on the definition of "begin actual construction" is provided in Section IV of the TSD.

The definition of "major modification" in proposed Section 203.1220 is consistent with the blueprint rule, except it also contains language from Part 204 and existing Part 203. As for

substantive changes from the blueprint rule, IERG did not include an exclusion for temporary clean coal demonstration projects because there are no temporary clean coal demonstration projects in Illinois. IERG also proposes to add a reference to NO_X in the provision stating that any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOM *or* NO_X shall be considered significant for ozone. *See* proposed 35 Ill. Adm. Code 203.1220(b).

Additionally, IERG proposes to retain two provisions from existing Part 203 in the proposed definition of "major modification." *See* proposed 35 Ill. Adm. Code 203.1220(d) and (e). As for changes from the existing Part 203 language in these provisions, "increase (other than a de minimis increase)" was changed to "significant increase." The phrase "de minimis" is not used in the underlying federal regulations. Additionally, the prior "de minimis" concepts in existing Section 203.207(d)-(f) were revised to remove the "de minimis" verbiage and were moved to the definition of "significant" in proposed Section 203.1370, consistent with the federal blueprint rule. Additional discussion on the changes made to the definition of "major modification" is provided in Section III of the TSD.

The definition of "major stationary source" in proposed Section 203.1230 is based on the blueprint rule, but it is organized consistent with existing Section 203.206. As for substantive changes from the blueprint rule, IERG did not include the federal 50 tons/year or 100 tons/year major stationary source thresholds for VOM and NO_X, respectively, in an area within an ozone transport region because Illinois is not in the ozone transport region. See Section II of the TSD for additional discussion on the changes made to the "major stationary source" definition. Additionally, IERG included original language in proposed Section 203.1230(a)(8) to clarify the major stationary source threshold for purposes of proposed Subpart R.

Proposed Section 203.1270 contains the definition of "nonattainment area." The proposed definition is not from the blueprint rule, but is based on the definition of "nonattainment area" in existing Section 203.127. The proposed definition differs from existing Section 203.127 in that the proposed definition adds a reference to Subpart C of 40 CFR Part 81. This reference is consistent with the applicability provisions of the blueprint rule, which state in part: "Each plan shall adopt a preconstruction review program to satisfy the requirements of sections 172(c)(5) and 173 of the [CAA] for any area designated nonattainment for any [NAAQS] under subpart C of 40 CFR part 81." 40 CFR § 51.165(a)(2)(i).

The definition of "potential to emit" in proposed Section 203.1290 is consistent with the blueprint rule, except that IERG proposes to add language to clarify that any physical or operational limitation on the capacity of a source to emit a pollutant shall be treated as part of its design only if the limitation or the effect it would have on emissions is either federally enforceable *or legally and practicably enforceable by a state or local air pollution control agency*. This addition is consistent with established federal policy and case law. *See National Mining Ass'n v. EPA*, 59 F. 3d 1351 (D.C. Cir. 1995) (finding that USEPA exceeded its authority when it determined that only federally enforceable emission limitations should be considered to limit a source's PTE); *Chemical Manufacturers Ass'n, et al. v. EPA*, No. 89-1514, 70 F. 3d 637 (D.C. Cir. Sept. 15, 1995) (vacating and remanding PTE definition in federal PSD and NA NSR regulations to USEPA); "Release of Interim Policy an Federal Enforceability of Limitations on Potential to Emit," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Office Addressees, USEPA (Jan. 22, 1996)[12] (stating that "[t]he term 'federally enforceable' should be read to mean 'federally enforceable or legally and practicably

[12] Available online at https://www.epa.gov/sites/production/files/2015-07/documents/pottoemi.pdf.

enforceable by a state or local air pollution control agency.'"). The addition is also consistent with the definition of "potential to emit" in the PSD Program at Part 204. *See* 35 Ill. Adm. Code 204.560.

The definition of "regulated NSR pollutant" in proposed Section 203.1340 is consistent with the blueprint rule, except that some Appendix S language was also used. Appendix S language is used in proposed Section 203.1340(c)(3) to address VOM and ammonia as precursors to $PM_{2.5}$. See Section I of the TSD for further discussion of this issue. The remaining language in proposed Section 203.1340 is consistent with the blueprint rule, except that proposed Section 203.1340(c)(1) includes a reference to proposed Section 203.1450. *See* proposed 35 Ill. Adm. Code 203.1340(c)(1) ("Except as provided in Section 203.1450, VOM and NO_X are precursors to ozone in all ozone nonattainment areas."). Proposed Section 203.1450(c) states that the control requirements which are applicable to major stationary sources and major modifications of $PM_{2.5}$ shall also apply to major stationary sources and major modifications of $PM_{2.5}$ precursors which are regulated NSR pollutants in a $PM_{2.5}$ nonattainment area. However, proposed Section 203.1450(c) then clarifies that the Agency shall exempt new major stationary sources and major modifications of a particular precursor from the requirements of proposed Part 203 for $PM_{2.5}$ if the precursor is not a regulated NSR pollutant as provided by proposed Section 203.1340(c)(3)(A).

The definition of "significant" in proposed Section 203.1370 is consistent with the blueprint rule, except it addresses ammonia as a precursor to $PM_{2.5}$.[13] The table in proposed Section 203.1370(a) includes a 70 tons/year emissions rate for ammonia as precursor to $PM_{2.5}$.

[13] *See* 40 CFR § 51.165(a)(1)(x)(F) (". . . if the plan requires that the control requirements of this section apply to major stationary sources and major modifications of Ammonia as a regulated NSR pollutant (as a $PM_{2.5}$ precursor), the plan shall also define 'significant' for Ammonia for that area").

The basis for the 70 tons/year significant emissions rate for ammonia is addressed in Section III of the TSD. Additionally, the provisions concerning serious nonattainment areas for CO and serious and severe nonattainment areas for ozone include language from existing 35 Ill. Adm. Code 203.207. Proposed subparagraph (d) addresses extreme ozone nonattainment areas, and is consistent with the blueprint rule, except for inclusion of NO_X and use of the term "significant" instead of "significant net emissions increase." NO_X was added to this provision consistent with existing Section 203.207(f). As to the use of "significant," this term was used to promote clarity, as a change causing *any* increase in VOM or NO_X emissions results in a major modification in an extreme ozone nonattainment area. This is consistent with proposed Sections 203.1220(e) and 203.1410(c)(1). Lastly, a new provision was added to address the relationship between the definition of "significant" and proposed Subpart R. *See* proposed 35 Ill. Adm. Code 203.1370(e).

The definition of "stationary source" in proposed Section 203.1400 is consistent with the blueprint rule, except that it includes a sentence to clarify that emissions resulting from an internal combustion engine for transportation purposes, a nonroad engine, or nonroad vehicle are not part of a stationary source. This exclusion is consistent with the CAA's definition of "stationary source," as well as the PSD Program in Part 204. *See* 42 U.S.C. § 7602; 35 Ill. Adm. Code 204.690; *see also* 35 Ill. Adm. Code 203.112 (this exclusion is also reflected in existing Part 203's definition of "building, structure, and facility" at 35 Ill. Adm. Code 203.112).

2. Subpart J: Major Stationary Sources in Nonattainment Areas

Subpart J contains the general requirements specific to major stationary sources located in nonattainment areas. As discussed more below, Subpart N contains additional requirements

specific to major stationary sources located in nonattainment areas. Subpart R contains the requirements specific to major stationary sources located in attainment or unclassifiable areas.

Subpart J first addresses, in proposed Section 203.1410, the applicability of Part 203 to major stationary sources located in nonattainment areas. Specifically, proposed Section 203.1410(a) explains that Part 203, other than proposed Subpart R, applies to the construction of any new major stationary source or major modification that is major for the pollutant for which the area is designated nonattainment if the stationary source or modification would locate in a nonattainment area. Proposed Section 203.1410(b) provides that no new major stationary source or major modification to which the requirements of proposed Sections 203.1410, 203.1420, 203.1430, 203.1440, 203.1800, 203.1810, 203.1820, 203.1830, or 203.2000 apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. This prohibition is consistent with Part 204. *See* 35 Ill. Adm. Code 204.800(c).

Subpart J then addresses how to determine whether a project at an existing major stationary source constitutes a major modification – the project must cause both a significant emissions increase ("Step 1") and a significant net emissions increase ("Step 2"). Proposed Section 203.1410 also describes the procedures for calculating whether a significant emissions increase and significant net emissions increase will occur. See Section II of the TSD for further discussion on major modifications. The provisions in proposed Section 203.1410 are consistent with the applicability provisions in the blueprint rule.

Additionally, Subpart J clarifies that both increases and decreases in emissions resulting from a proposed project are considered in determining whether the proposed project would result in a significant emissions increase (i.e., Step 1 of the major modification applicability test). *See*

proposed 35 Ill. Adm. Code 203.1410(c)(6). This is consistent with the revisions to the Project Emissions Accounting Rule recently adopted by USEPA discussed above.

Proposed Section 203.1420 addresses the effect of permits, and proposed Section 203.1430 explains when Part 203 applies if a source or modification becomes a major stationary source or major modification solely due to a relaxation of any enforceable limitation established after a certain date. This provision is consistent with existing Section 203.210(b). Additionally, an exemption from Part 203 is provided in proposed Section 203.1460 if a source or modification would be a major stationary source or modification only if fugitive emissions are considered in calculating the PTE. This provision is unchanged from existing Section 203.211. Fugitive emissions are further discussed in Section III of the TSD.

Proposed Section 203.1440 contains several prohibitions specific to new major sources and major modifications located in nonattainment areas that are not contained in the blueprint rule, but are consistent with existing Sections 203.201, 203.203(d), and 203.601. First, proposed Section 203.1440(a) provides that no major stationary source or major modification shall violate any condition in a construction permit issued under Part 203. Proposed Section 203.1440(b) states that no person shall begin actual construction of a new major stationary source or major modification that is major for the regulated NSR pollutant for which the area is designated nonattainment except as in compliance with Subpart J and Subpart N. Proposed Section 203.1440(c) requires that a new major stationary source or major modification subject to the requirements of Subpart N must operate in compliance with the applicable LAER provisions. These concepts are discussed further in Sections II and III of the TSD. These prohibitions are not from the blueprint rule, but are consistent with existing Sections 203.201, 203.203(d), and 203.601 except for the use of the phrases “begin actual construction” and “regulated NSR

pollutant" in proposed Section 203.1440(b). "Begin actual construction" was used instead of "cause or allow the construction" and "regulated NSR pollutant" was used instead of "pollutant" because "begin actual construction" and "regulated NSR pollutant" are defined phrases that are used elsewhere in proposed Part 203.

Lastly, Subpart J contains several provisions governing the control of ozone, PM_{10}, and $PM_{2.5}$ precursors. *See* proposed 35 Ill. Adm. Code 203.1450. These provisions are consistent with the blueprint rule, except proposed Section 203.1450(c) references proposed Section 203.1340(c)(3)(A) in order to address the precursors exclusion in the definition of "regulated NSR pollutant."

As discussed above, the bases for the provisions in Subpart J are a mixture of the blueprint rule and existing Part 203. Two provisions from existing Part 203 that are not included in IERG's Proposal are existing 35 Ill. Adm. Code 203.202 (Coordination with Permit Requirement and Application Pursuant to 35 Ill. Adm. Code Part 201) and existing 35 Ill. Adm. Code 203.203(b), which requires that applications for construction permits contain sufficient information to demonstrate compliance with 35 Ill. Adm. Code Part 201. These provisions are not in the blueprint rule and were not included in IERG's Proposal, consistent with the PSD Program at Part 204.

3. Subpart K: Stack Heights

Subpart K addresses stack height requirements. In particular, proposed Section 203.1500 provides, in part, that the degree of emission limitation required for control of any regulated NSR pollutant under Part 203 shall not be affected by the stack height of any source in excess of good engineering practice and shall not be affected by any other dispersion technique. The provisions in Subpart K are consistent with the stack height provisions in 40 CFR §§ 51.118 and 51.164.

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

Subpart L contains the general obligations of Illinois EPA under Part 203. Proposed Section 203.1600 contains requirements concerning issuance of construction permits issued pursuant to Part 203. Proposed Section 203.1600 is not from the blueprint rule, but is partly based on existing Section 203.203(c). Original language is included in proposed Section 203.1600(a) to clarify the Agency's obligations as to issuance of construction permits. Additionally, original language is included in proposed Section 203.1600(a) to clarify that, if interprecursor trading would be relied upon for all or a portion of the emissions offsets that must be provided for such source or modification, the Agency's final determination on such trading would be part of the issued construction permit.

Additionally, Subpart L addresses public participation, which must be provided prior to initial permit issuance or permit modification (i.e., notice, comment, and opportunity for public hearing). *See* proposed 35 Ill. Adm. Code 203.1610. The public participation requirements are not from the blueprint rule, but are partially based on existing Part 203. Proposed Section 203.1610(a) is based on existing Section 203.150 and is consistent with Part 204. See 35 Ill. Adm. Code 204.1320. Section 203.1610(b) contains original language to satisfy the public participation requirements in 40 CFR § 51.161 that are not already addressed by 35 Ill. Adm. Code Part 252. As part of the Agency's PSD rulemaking proposal, the Agency amended 35 Ill. Adm. Code Part 252 to add additional public participation requirements specific to the PSD program. *See* Agency's Public Notice: SIP Revision for 35 Ill. Adm. Code Part 252, Public Participation in the Air Pollution Control Program, PCB R 19-1 (Ill.Pol.Control.Bd. Apr. 10, 2020). Because Part 252 is an Agency rule, IERG proposes the NA NSR-specific public participation requirements as part of its Part 203 Proposal.

5. Subpart M: Non-Applicability Recordkeeping and Reporting

Subpart M applies if a reasonable possibility exists that a project, that is not projected to be a major modification, may, nevertheless in practice, result in a significant emissions increase. *See* proposed 35 Ill. Adm. Code 203.1700. The requirements in Subpart M only apply to projects that are located in nonattainment areas and only if projected actual emissions are used. A reasonable possibility is determined by the criteria in proposed Section 203.1700(f).

If a "reasonable possibility" exists, then certain recordkeeping and reporting requirements apply. These include, but are not limited to, maintaining records of information regarding the project prior to beginning actual construction of the project, maintaining records of emissions of any NSR pollutant that could increase as a result of the project, and reporting to Illinois EPA certain data if the annual emissions from the project exceed the baseline actual emissions by a significant amount for that regulated NSR pollutant and if such emissions differ from the preconstruction projection. See Section III of the TSD for further discussion of this concept. Subpart M is consistent with the blueprint rule. Subpart M is also consistent with the PSD Program. *See* 35 Ill. Adm. Code Part 204, Subpart I.

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

Subpart N contains requirements specific to major stationary sources in nonattainment areas that are in addition to the requirements in Subpart J. Subpart N provides requirements for the major substantive components of NA NSR: LAER, emissions offsets, compliance demonstration, and analysis of alternatives.

Proposed Section 203.1800 contains the LAER requirements. These provisions are not from the blueprint rule, but are consistent with the provisions in existing 35 Ill. Adm. Code 203.301(b)-(f). As opposed to the existing Part 203 provisions, proposed Section 203.1800 uses

the term "regulated NSR pollutant" instead of "pollutant." In particular, proposed Sections 203.1800(a) and (b) clarify that LAER will be produced "for each regulated NSR pollutant for which the stationary source is major." This clause was added to clarify that an owner or operator of a new major stationary source or major modification must produce LAER for each regulated NSR pollutant for which the stationary source is major. Additionally, in proposed Section 203.1800(b), IERG includes the phrase "in the emissions unit" at the end of the second sentence. This clause was added to make this provision consistent with the definition of LAER in proposed Section 203.1210. See proposed 35 Ill. Adm. Code 203.1210(b) ("This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source."). The definition of "LAER" in existing Section 203.301(a) was moved to the definition section in Subpart I of IERG's Proposal. *See* proposed 35 Ill. Adm. Code 203.1210. TSD Section V offers additional discussion on the concept of LAER.

Proposed Section 203.1810 contains the requirements for emissions offsets, including what offsets are required, the location of the offsets, and the amount of offsets needed. The offset requirements are mostly based on the blueprint rule, except the requirements in existing Sections 203.302(a), (a)(2), and (b) were included in IERG's Proposal. Additionally, a few provisions are based on Appendix S as discussed below.

IERG's Proposal includes the emissions offset baseline requirements applicable to shutdowns and curtailments per the blueprint rule. (The requirements in existing Section 203.303 reflect the requirements of the CAA prior to the 1990 CAA amendments.) See Section V of the TSD for further discussion of this change, as well as for a general discussion on the requirements for offsets.

Language from Appendix S was incorporated in proposed Section 203.1810 to address requirements not covered by the blueprint rule. For example, Appendix S language was used in proposed Section 203.1810(c) to address emissions reductions obtained in a neighboring State. Further, proposed Section 203.1810(a)(1)(A) includes original language that clarifies that pollutants for which the area is designated nonattainment or precursors of those pollutants are required for offsets. As to new major stationary sources, offsets are required for each regulated NSR pollutant for which the stationary source is major. As to major modifications, offsets are required for each regulated NSR pollutant for which the modification is major.

Additionally, Subpart N allows for interprecursor trading ("IPT") of emissions offsets for $PM_{2.5}$. *See* Proposed 35 Ill. Adm. Code 203.1810(h). IPT is based on an IPT ratio that will provide an equivalent or greater air quality benefit with respect to ambient concentrations of the regulated NSR pollutant (i.e., $PM_{2.5}$) in the nonattainment area for that regulated NSR pollutant. The basis for the IPT provisions is the blueprint rule. IERG's Proposal does not include IPT for ozone consistent with case law and the amendments to the blueprint rule adopted in the recent Error Corrections Rule. On January 29, 2021, the D.C. Circuit Court of Appeals issued a decision on several petitions for review concerning the federal rules implementing the ozone NAAQs. *Sierra Club, et al. v. Environmental Protection Agency, et al.*, 985 F. 3d 1055 (D.C. Cir. 2021). Among other things, the D.C. Circuit vacated the federal rules allowing for ozone IPT. *See id*. at 1068. This vacatur was addressed in the Error Corrections Rule discussed above. As such, IERG's Proposal only addresses IPT for $PM_{2.5}$. See Section V of the TSD for more discussion on IPT. Proposed Section 203.1810(h) also clarifies that, prior to making a final determination on the IPT ratio, the Agency must submit the IPT ratio to EPA for approval and

shall receive approval as a revision of the SIP. *See* proposed 35 Ill. Adm. Code 203.1810(h)(2)(D). This concept is further discussed in Section V of the TSD.

Lastly, Subpart N provides the requirements for the analysis of alternatives, as well as compliance by existing sources. *See* proposed 35 Ill. Adm. Code 203.1820 and 203.1830. These provisions are not based in the blueprint rule, but are from existing Part 203. The analysis of alternatives provision is unchanged from existing Section 203.306, and the requirements for compliance by existing sources is unchanged from existing Section 203.305.

7. Subpart O: General Maintenance of Emission Offsets

Subpart O contains a requirement for the general maintenance of emission offsets. Proposed Section 203.1900 requires that the entity that provides the emissions reductions shall not cease to maintain emission offsets which were provided for a source or modification which is subject to Part 203. This Subpart is not derived from the blueprint rule, but is unchanged from existing Part 203, Subpart G. The requirement for maintaining emissions offsets is further discussed in Section IV of the TSD.[14]

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

Subpart P provides the requirements for offsets for emission increases from rocket engines and motor firing. *See* proposed 35 Ill. Adm. Code 203.2000. This Subpart is not derived from the blueprint rule, but is unchanged from existing Part 203, Subpart H.

9. Subpart Q: Plantwide Applicability Limitation

Subpart Q provides the requirements for obtaining a PAL. PALs are limits used to avoid triggering review under the NA NSR program for certain modifications implemented by an

[14] The emission offset maintenance provision in existing 35 Ill. Adm. Code 203.602 is not included in IERG's Proposal because it is not in the blueprint rule.

existing major stationary source. PALs are not limited to nonattainment areas. Subpart Q authorizes the Illinois EPA to approve the use of a PAL for any existing major stationary source if the PAL meets the requirements of Subpart Q. *See* proposed 35 Ill. Adm. Code 203.2100(a).

Subpart Q contains the general requirements for establishing a PAL, requirements for PAL permits and applications, and expiration and renewal of a PAL. *See* proposed 35 Ill. Adm. Code 203.2300-203.2420. Subpart Q is new to Part 203. The basis for Subpart Q is the blueprint rule and is consistent with the PSD Program. *See* 35 Ill. Adm. Code Part 204, Subpart K. For further discussion on PALs, see Section I of the TSD.

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

Subpart R contains provisions regarding the applicability of Part 203 to new major stationary sources and major modifications in attainment and unclassifiable areas. As explained above, the federal NA NSR program applies to construction and modification of certain pollutant-emitting facilities located in or near areas designated as nonattainment for a pollutant for which the area has been designated nonattainment, or for which the construction or modification would cause or contribute to a NAAQS violation, and/or the precursor(s) for that pollutant. Proposed Section 203.2500 contains the applicability provisions specific to new major sources and major modifications located in attainment and unclassifiable areas, including that no person shall begin actual construction of a new major stationary source or major modification if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS, except as in compliance with Subpart R. Additionally, while not included in the blueprint rule, proposed Section 203.2500 clarifies that the applicability of the PSD regulations in Part 204 is not affected by the applicability of Subpart R. *See* 35 Ill. Adm. Code 203.2500(c).

Subpart R provides the significant levels for determining if a major stationary source or major modification would be contributing to a violation of the NAAQS. *See* proposed 35 Ill. Adm. Code 203.2510. Subpart R also provides that an owner or operator shall reduce the impact of its emissions on air quality by obtaining emissions reductions to compensate for its adverse ambient impact when the major stationary source or major modification would otherwise cause or contribute to a violation of a NAAQS. *See* proposed 35 Ill. Adm. Code 203.2520. Additionally, proposed Section 203.2520(b) specifies which provisions in Part 203 an owner or operator of a facility subject to Subpart R must comply with. This provision is not in the blueprint rule, but was added to IERG's Proposal to provide clarity on which Part 203 provisions outside of Subpart R apply to facilities subject to Subpart R.

Lastly, proposed Section 203.2530 provides Illinois EPA's obligations under Subpart R, including that Illinois EPA shall only issue a construction permit under Subpart R if Illinois EPA determines that the source meets all applicable requirements of the Subpart. Proposed Section 203.2530 differs from the blueprint rule in that it clarifies that Illinois EPA must include in any construction permit issued per Subpart R conditions that specify the manner in which the applicable requirements of Subpart R are satisfied. Additionally, proposed Section 203.2530(c) states that Illinois EPA must follow the specified public participation procedures when issuing a permit under Subpart R. This provision is consistent with 40 CFR § 51.161 and adds clarity as to what public participation procedures apply to Subpart R permits.

Subpart R is new to Part 203. The basis for the provisions in Subpart R is the blueprint rule, though Subpart R differs from the blueprint rule in several aspects as described above. Section VI of the TSD provides additional explanation as to the Part 203 requirements applicable to major sources and major modifications located in attainment and unclassifiable areas.

B. Amendment to 35 Ill. Adm. Code Part 204

IERG is proposing several amendments to the PSD rules at Part 204. The proposed amendments are discussed in detail below.

1. Section 204.490

Section 204.490 contains the definition for "major modification" under the PSD rules. 35 Ill. Adm. Code 204.490. IERG proposes to amend an error contained in a reference to the CAA in Section 204.490(c)(3). Specifically, IERG proposes to amend Section 204.490(c)(3) as follows:

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

* * *

3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 USC 7432~~3~~5);

IERG proposes this amendment to Section 204.490(c)(3) to correct the reference to Section 125 of the CAA. The correct citation for Section 125 of the CAA is 42 USC 7425. Amending Section 204.490(c)(3) will make this section consistent with proposed Section 203.1220(c)(3) and consistent with 40 CFR § 51.166(b)(2)(iii)(C).

2. Section 204.800

Section 204.800 contains the applicability provisions for Part 204. *See* 35 Ill. Adm. Code 204.800(a)-(f). IERG proposes to revise Section 204.800 to clarify that both increases and decreases in emissions resulting from a proposed project are considered in determining whether the proposed project would result in a significant emissions increase. IERG proposes to amend Section 204.800(d) to revise subparagraph (5) and add a new subparagraph (6), as seen below:

d) The requirements of the project will be applied in accordance with the principles set out in this subsection (d).

***

5) Hybrid Test for Projects That Involve Multiple Types of Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the ~~emissions increases for each~~ difference for all emissions units, using the method specified in subsections (d)(3) and (d)(4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

6) The "sum of the difference" as used in subsections (d)(3) through (d)(5) shall include both increases and decreases in emissions calculated in accordance with those subsections.

The above language mirrors the language included in proposed 35 Ill. Adm. Code 203.1410(c)(5) and (6). The revision is consistent with the revisions to the Project Emissions Accounting Rule recently adopted by USEPA discussed above.

Additionally, IERG proposes to add a new subsection to Section 204.800 to address the interaction between the PSD rules at Part 204 and Subpart R of Part 203 of IERG's Proposal, which contains provisions that apply to new major stationary sources or major modifications located in attainment and unclassifiable areas. As described above, the NA NSR program applies to construction and modification of certain pollutant-emitting facilities located in or near areas designated as nonattainment for a pollutant for which the area has been designated nonattainment, or for which the construction or modification would cause or contribute to a NAAQS violation, and/or the precursor(s) for that pollutant.

IERG proposes to amend Section 204.800 to add a new subsection (g) as follows:

g) The provisions of 35 Ill. Adm. Code Part 203, Subpart R, apply with respect to any regulated NSR pollutant emitted from the construction of any new major stationary source as defined in 35 Ill. Adm. Code 203.1230(a)(8) or any major modification as defined in 35 Ill. Adm. Code 203.1220 in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)) if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS.

The addition of the above paragraph to Section 204.800 would serve as a pointer to Part 203, Subpart R, for facilities potentially subject to Part 204. Such addition would not substantively amend Part 204.

3. Section 204.930

Section 204.930 of the Board's PSD rules addresses redesignation of areas of the State. 35 Ill. Adm. Code 204.930. Specifically, Section 204.930(c) provides the requirements for areas to be redesignated as Class III areas. IERG proposes to amend Section 204.930(c)(4) to correct an error as follows:

> c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:
>
> * * *
>
> 4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this ~~Section~~Part 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.

IERG proposes to amend Section 204.930(c)(3) to reference major stationary sources or major modifications that could receive a permit under Part 204. The current reference to receiving a permit under Section 204.930 is incorrect as Section 204.930 does not concern the issuance of PSD permits.

4. Section 204.1670

IERG proposes to amend 35 Ill. Adm. Code 204.1670 to update a cross-reference to Part 203. Section 204.1670 contains the definition of "lowest achievable emission rate" as applicable to PALs under Part 204, and it references the definition of "lowest achievable emission rate" in existing 35 Ill. Adm. Code 203.301(a). *See* 35 Ill. Adm. Code 204.1670. While IERG's

Proposal does not substantively amend the language of the "lowest achievable emission rate" definition in current Section 203.301(a), IERG does propose to sunset Subparts A through H of existing Part 203 upon USEPA approval of IERG's proposed amendments as a revision to the Illinois SIP.[15] Therefore, after USEPA approval of IERG's proposed amendments (with one exception), the definition of "lowest achievable emission rate" in proposed Subpart I would be applicable, while the definition in current Section 203.301(a) would be sunset. To avoid having to later amend Part 204 upon this occurrence in order to update this cross-reference, IERG instead proposes to amend Part 204 in this Proposal, as follows:

> Section 204.1670 Lowest Achievable Emission Rate (LAER)
>
> "Lowest achievable emission rate" or "LAER" has the meaning given by 35 Ill. Adm. Code Part 203~~.301(a)~~.

This proposed amendment ensures that, in the future, the cross-reference in Section 204.1670 will reference the applicable definition in Part 203 (i.e., Section 203.301(a) prior to USEPA approval of IERG's proposed amendments, and proposed Section 203.1210 after USEPA approval).

C. Amendment to 35 Ill. Adm. Code Part 232

IERG is proposing to amend 35 Ill. Adm. Code 232.120 to update a cross-reference to Part 203. Section 232.120 contains the definitions to Part 232, Toxic Air Contaminants. Section 232.120 provides the definition for "fugitive emissions," which references the definition of "fugitive emissions" in existing 35 Ill. Adm. Code 203.124. The definition of "fugitive emissions" in IERG's Proposal at proposed Section 203.1190 is the same as the definition in existing Section 203.124. While IERG's Proposal does not revise the language of the "fugitive

[15] IERG's proposed revisions to the "lowest achievable emission rate" definition adds language to clarify that it is the owner or operator of the proposed stationary source that must make the demonstration that the most stringent emissions limitation is not achievable.

emissions" definition, IERG does propose to sunset Subparts A through H of existing Part 203 upon USEPA approval of IERG's proposed amendments as a revision to the Illinois SIP. Therefore, after USEPA approval of IERG's proposed amendments to Part 203 (with one exception), the definition of "fugitive emissions" in proposed Subpart I would be applicable, while the definition in current Section 203.124 would be sunset. To avoid having to later amend Part 232 upon this occurrence in order to update this cross-reference, IERG instead proposes to amend Section 232.120 in this Proposal, as follows:

> Section 232.120 Definitions
>
> The definitions of 35 Ill. Adm. Code 201 and 211 apply to this Part, as well as the definitions contained in this Section. Where a definition contained in this Section is more specific than those found in 35 Ill. Adm. Code 201 and 211, it must take precedence in application of this Part.
>
> * * *
>
> "Fugitive emissions" is defined according to 35 Ill. Adm. Code Part 203.~~124~~.

This proposed amendment ensures that, in the future, the cross-reference in Section 232.120 will reference the applicable definition in Part 203 (i.e., Section 203.124 prior to USEPA approval of IERG's proposed amendments, and proposed Section 203.1190 after USEPA approval). It is prudent to note that there is a pending rulemaking at the Board that proposes to repeal 35 Ill. Adm. Code Part 232. In *In the Matter of Amendments to 35 Ill. Adm. Code Subtitle B,* PCB R 18-21, the Agency proposes to repeal Part 232 as unnecessary given USEPA's development of programs to control emissions of toxic air contaminants. *See* Statement of Reasons, *In the Matter of Amendments to 35 Ill. Adm. Code Subtitle B*, PCB R 18-12 at 12 (Ill.Pol.Control.Bd. Jan. 10, 2018). The Agency's proposal was accepted for hearing on February 8, 2018, but has not yet progressed to First Notice. If the Board adopts the Agency's proposal in PCB R 18-21 to repeal Part 232, IERG's proposed revision to Part 232 would be unnecessary.

D. State Implementation Plan Revision

Should the Board adopt the NA NSR updates proposed herein, it is IERG's intent that the Agency submit the final NA NSR rules to USEPA for review and approval as revisions to the Illinois SIP. SIP revisions are required to undergo public notice and opportunity for hearing before they are submitted to USEPA for approval under 40 CFR § 51.102 and Appendix V to Part 51. The Board's procedural rules provide for notice that meets this requirement, as set forth under 35 Ill. Adm. Code 102.416. To be compliant, the notice must describe the revisions and specify that the adopted rule will be submitted as a SIP revision to USEPA. Given that the proposed amendments to Part 203 and Part 204 are intended to be submitted by the State of Illinois as a SIP revision,[16] IERG recommends that the following or similar language be included in the Board's notice of hearings regarding this rulemaking:

> If adopted by the Board, the Illinois EPA will submit proposed amendments to Part 203 and Part 204 to the United States Environmental Protection Agency (U.S. EPA) for review and approval as a State Implementation Plan (SIP) revision to satisfy Clean Air Act ("CAA") requirements regarding Nonattainment New Source Review. 42 U.S.C. §§ 7410(a)(2)(C) and 7471. The revisions submitted to U.S. EPA will include not only the amendments to current regulatory provisions under this proposal, but also the newly created provisions, as well as an analysis demonstrating that the proposal does not interfere with attainment or maintenance of any applicable National Ambient Air Quality Standard, reasonable further progress, or any other applicable requirement of the CAA. This notice is intended to satisfy the requirements of Section 110(l) of the CAA, 42 U.S.C. §7410(l), regarding public notice for SIP submittals.

IV. PURPOSE AND EFFECT OF THE PROPOSAL

The purpose and effect of this Proposal is to effectuate the above-described requirement of Public Act 99-0463 and Section 9.1(c) of the Act, that the Board adopt regulations establishing in Illinois a NA NSR permit program that meets the requirements of Section 173 of

[16] Part 232 has not been approved by USEPA as a revision to the Illinois SIP. As such, it is IERG's understanding that the proposed revision to Part 232 will not be submitted for approval as a revision to the SIP.

the CAA. The NA NSR provisions currently codified at 35 Ill. Adm. Code Part 203 date back to the 1990s, after the United States Congress amended the federal CAA in 1990 to incorporate new provisions in Part D of Title I of the Act.

Since that time, USEPA has made numerous revisions to the blueprint rule at 40 CFR § 51.165 and 40 CFR Part 51, Appendix S. IERG is proposing to update Part 203 to address these amendments so that Part 203 is consistent with the underlying federal regulations. IERG's Proposal also makes other clarifying revisions that delete obsolete provisions and revise regulatory text and formatting to be consistent with the approach in the new PSD program at 35 Ill. Adm. Code 204.

Finally, as explained above, IERG proposes to amend Parts 204 and 232 to address cross-references to Part 203, fix certain errors, revise consistent with the Project Emissions Accounting Rule, and add a reference to proposed Part 203, Subpart R.

V. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The NA NSR program applies, in general, to major stationary sources which emit or could have the potential to emit an air pollutant for which the area is nonattainment in quantities at or above the applicable threshold. The NA NSR program impacts all areas of the state designated nonattainment for one or more of the criteria pollutants comprising the NAAQS: ozone, carbon monoxide, sulfur dioxide, particulate matter, lead, and nitrogen dioxide. As of the date of this filing, the following areas are designated nonattainment in Illinois: (1) the greater Chicago area is designated serious nonattainment for the 2008 8-hour ozone standard and marginal nonattainment for the 2015 8-hour ozone standard; (2) the St. Louis Metro East area is designated marginal nonattainment for the 2015 8-hour ozone standard; and (3) Alton Township is designated nonattainment for SO_2.

The NA NSR program also impacts areas of the State designated attainment or unclassifiable for which a new major stationary source or major modification would cause or contribute to a violation of any NAAQS. A single geographic area may be designated both as nonattainment for a pollutant and as attainment or unclassifiable for other pollutants.

VI. TECHNICAL FEASIBILITY, ECONOMIC REASONABLENESS, AND ENVIRONMENTAL AND ECONOMIC IMPACT

NA NSR reviews are completed by the Illinois EPA on a case-by-case basis; therefore the technical feasibility and the costs of compliance with the NA NSR program would generally be source-specific. The purpose of IERG's Proposal is to bring Part 203 up-to-date with the CAA and underlying federal regulations. Because IERG's Proposal seeks to update Illinois' NA NSR rules to be consistent with the federal requirements, and because the federal requirements were promulgated under USEPA's assessment that the rules were economically justified,[17] the Board may similarly find these proposed rules to be economically justified under the same rationale employed by USEPA. Additionally, the economic impact of the proposed amendments would not differ from the economic impact from the imposition of the federal NA NSR program. *See* Final Opinion and Order, PCB R 19-1, at 159-60 (Aug. 27, 2020) (finding that the Part 204 Proposal was economically reasonable).

As discussed in the TSD, the nonattainment control requirement of Part 203 for new major stationary sources or major modifications located in in a nonattainment area is LAER. The LAER requirement expressly provides that Illinois EPA impose only emission limits that it determines, on a case-by-case basis, to be "achievable" (i.e., technically feasible) for the emissions units and stationary sources to which those limits will apply. Because the fundamental

[17] *See, e.g.,* 67 Fed. Reg. 80186 (Dec. 31, 2002).

nature of LAER is not changing in IERG's Proposal, the costs for LAER similarly should not change.

As to new major stationary sources or major modifications located in attainment or unclassifiable areas which would cause or contribute to a violation of any NAAQS, LAER is not applicable. However, to obtain a construction permit under proposed Part 203 Subpart R, new major stationary sources or major modifications in attainment or unclassifiable areas must reduce the impact of the proposed emissions increase on air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient impact where it would otherwise cause or contribute to a violation of a NAAQS. This requirement, along with the rest of IERG's Proposal, is consistent with Section 9.1(a) of the Act in that it will:

> … insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards.

415 ILCS 5/9.1(a).

Further, because the proposed amendments to Part 203 are, in most part, identical to the currently applicable federal NA NSR program, the proposed amendments are technically feasible and the environmental impact would not differ from the imposition of the federal NA NSR program. *See* Final Opinion and Order, PCB R 19-1, at 158-59 (Aug. 27, 2020) (finding that the Part 204 Proposal was technically feasible).

Lastly, IERG's proposed amendments to 35 Ill. Adm. Code Parts 204 and 232 are technically and economically reasonable. As explained above, IERG is proposing to amend these Parts to update cross-references, fix certain errors, add a reference to proposed Part 203 Subpart R, and amend to conform with the Project Accounting Emissions Rule. The proposed

amendments would impose no additional requirements upon the sources subject to Part 203. As such, the proposed revisions to Part 204 and Part 232 are technically feasible and economically reasonable. *See* Final Opinion and Order, PCB R 19-1, at 158-60 (Aug. 27, 2020) (finding that the proposed amendments to Parts 101, 105, 203, 211, and 215 in the Part 204 Proposal were economically reasonable and technically feasible).

VII. OUTREACH

IERG engaged in extensive outreach on this Proposal with Illinois EPA and USEPA. IERG provided drafts of the proposed amendments to Illinois EPA and USEPA Region 5. IERG discussed the proposed amendments with Illinois EPA and USEPA Region 5, in detail, on numerous occasions. IERG also shared drafts of the proposed amendments to other industry associations, including the Illinois Manufacturers' Association and the Chemical Industry Council of Illinois.

IERG received numerous comments on the proposal. Such comments can generally be categorized as both substantive and organizational. IERG reviewed and considered all comments. This proposal, as appropriate, incorporates most of the suggestions set forth in those comments.

VIII. SYNOPSIS OF TESTIMONY

IERG anticipates calling Alec M. Davis, Executive Director of IERG, and Colin M. Campbell, with RTP Environmental Associates, Inc., as witnesses at hearing. Mr. Davis will testify regarding the history behind Public Act 99-0463 and the impact on the regulated community resulting from the proposed amendments to Part 203, which include updates to Illinois' NA NSR program to reflect current federal requirements. Mr. Campbell will testify regarding the technical feasibility and economic reasonableness of the proposed amendments to

Parts 203, 204 and Part 232 as submitted by IERG. Written testimony will be submitted prior to hearing in accordance with the Board's procedural regulations and any Hearing Officer orders entered in this proceeding. Messrs. Davis and Campbell will be available for questions.

IX. CONCLUSION

For the foregoing reasons, IERG hereby submits this regulatory proposal and respectfully requests that the Board amend these regulations consistent with the proposal above.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
REGULATORY GROUP

Dated: August 16, 2021

By: /s/ Melissa S. Brown
One of Its Attorneys

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AN ACT concerning safety.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Environmental Protection Act is amended by changing Sections 9.1, 9.12, 39, 40, and 41 and by adding Sections 3.298, 3.363, and 40.3 as follows:

(415 ILCS 5/3.298 new)

Sec. 3.298. Nonattainment new source review (NA NSR) permit. "Nonattainment New Source Review permit" or "NA NSR permit" means a permit or a portion of a permit for a new major source or major modification that is issued by the Illinois Environmental Protection Agency under the construction permit program pursuant to subsection (c) of Section 9.1 that has been approved by the United States Environmental Protection Agency and incorporated into the Illinois State Implementation Plan to implement the requirements of Section 173 of the Clean Air Act and 40 CFR 51.165.

(415 ILCS 5/3.363 new)

Sec. 3.363. 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

EXHIBIT 1

Illinois Environmental Protection Agency under the construction permit program pursuant to subsection (c) of Section 9.1 that has been approved by the United States Environmental Protection Agency and incorporated into the Illinois State Implementation Plan to implement the requirements of Section 165 of the Clean Air Act and 40 CFR 51.166.

(415 ILCS 5/9.1) (from Ch. 111 1/2, par. 1009.1)

Sec. 9.1. (a) The General Assembly finds that the federal Clean Air Act, as amended, and regulations adopted pursuant thereto establish complex and detailed provisions for State-federal cooperation in the field of air pollution control, provide for a Prevention of Significant Deterioration program to regulate the issuance of preconstruction permits to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards, and that the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

It is the purpose of this Section to avoid the existence of

duplicative, overlapping or conflicting State and federal regulatory systems.

(b) The provisions of Section 111 of the federal Clean Air Act (42 USC 7411), as amended, relating to standards of performance for new stationary sources, and Section 112 of the federal Clean Air Act (42 USC 7412), as amended, relating to the establishment of national emission standards for hazardous air pollutants are applicable in this State and are enforceable under this Act. Any such enforcement shall be stayed consistent with any stay granted in any federal judicial action to review such standards. Enforcement shall be consistent with the results of any such judicial review.

(c) The Board shall ~~may~~ adopt regulations establishing permit programs for PSD and NA NSR permits meeting the respective requirements of Sections 165 and 173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The Agency may adopt procedures for the administration of such programs.

The regulations adopted by the Board to establish a PSD permit program shall incorporate by reference, pursuant to subsection (a) of Section 5-75 of the Illinois Administrative Procedure Act, the provisions of 40 CFR 52.21, except for the following subparts: (a)(1) Plan disapproval, (q) Public participation, (s) Environmental impact statements, (t) Disputed permits or redesignations and (u) Delegation of authority; the Board may adopt more stringent or additional provisions to the extent it deems appropriate. To the extent

that the provisions of 40 CFR 52.21 provide for the Administrator to make various determinations and to take certain actions, these provisions shall be modified to indicate the Agency if appropriate. Nothing in this subsection shall be construed to limit the right of any person to submit a proposal to the Board or the authority of the Board to adopt elements of a PSD permit program that are more stringent than those contained in 40 CFR 52.21, pursuant to the rulemaking requirements of Title VII of this Act and Section 5-35 of the Illinois Administrative Procedure Act.

(d) No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken (A) without a permit granted by the Agency whenever a permit is required pursuant to (i) this Act or Board regulations or (ii) Section 111, 112, 165, or 173 of the Clean Air Act or federal regulations adopted pursuant thereto or (B) in violation of any conditions imposed by such permit. The

issuance or any ~~Any~~ denial of such a PSD permit or any conditions imposed therein ~~in such a permit~~ shall be reviewable by the Board in accordance with Section 40.3 ~~40~~ of this Act. Other permits addressed in this subsection (d) shall be reviewable by the Board in accordance with Section 40 of this Act.

(e) The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity. In accordance with subsection (b) of Section 7.2, the Board shall adopt regulations identical in substance to the U.S. Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of volatile organic compounds in the Federal Register by amending the list of exemptions to the Board's definition of volatile organic material found at 35 Ill. Adm. Code Part 211. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, does not apply to regulations adopted under this subsection. However, the Board shall provide for notice, a hearing if required by the U.S. Environmental Protection Agency, and public comment before adopted rules are filed with the Secretary of State. The Board may consolidate

into a single rulemaking under this subsection all such federal policy statements published in the Federal Register within a period of time not to exceed 6 months.

(f) (Blank).

(Source: P.A. 97-95, eff. 7-12-11; 98-284, eff. 8-9-13.)

(415 ILCS 5/9.12)

Sec. 9.12. Construction permit fees for air pollution sources.

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

(b) The fee amounts in this subsection (b) apply to construction permit applications relating to (i) a source subject to Section 39.5 of this Act (the Clean Air Act Permit Program); (ii) a source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5; or (iii) a source that has or will require a federally enforceable State operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) If the construction permit application relates to one or more new emission units or to a combination of new and modified emission units, a fee of $4,000 for the first new emission unit and a fee of $1,000 for each additional new or modified emission unit; provided that the total base fee under this subdivision (A) shall not exceed $10,000.

(B) If the construction permit application relates to one or more modified emission units but not to any new emission unit, a fee of $2,000 for the first modified emission unit and a fee of $1,000 for each additional modified emission unit; provided that the total base fee under this subdivision (B) shall not exceed $5,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If, based on the construction permit application, the source will be, but is not currently, subject to Section 39.5 of this Act, a CAAPP entry fee of $5,000.

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or other municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) one or more other emission units designated as

a complex source by Agency rulemaking, a fee of $25,000.

(C) If the construction permit application involves an emissions netting exercise or reliance on a contemporaneous emissions decrease for a pollutant to avoid application of the ~~federal~~ PSD permit program ~~(40 CFR 52.21)~~ or nonattainment new source review ~~(35 Ill. Adm. Code 203)~~, a fee of $3,000 for each such pollutant.

(D) If the construction permit application is for a new major source subject to the ~~federal~~ PSD permit program, a fee of $12,000.

(E) If the construction permit application is for a new major source subject to nonattainment new source review, a fee of $20,000.

(F) If the construction permit application is for a major modification subject to the ~~federal~~ PSD permit program, a fee of $6,000.

(G) If the construction permit application is for a major modification subject to nonattainment new source review, a fee of $12,000.

(H) (Blank).

(I) If the construction permit application review involves a determination of the Maximum Achievable Control Technology standard for a pollutant and the project is not otherwise subject to BACT or LAER for a

related pollutant under the ~~federal~~ PSD permit program or nonattainment new source review, a fee of $5,000 per unit for which a determination is requested or otherwise required.

(J) (Blank).

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(c) The fee amounts in this subsection (c) apply to construction permit applications relating to a source that, upon issuance of the construction permit, will not (i) be or become subject to Section 39.5 of this Act (the Clean Air Act Permit Program) or (ii) have or require a federally enforceable state operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) For a construction permit application involving a single new emission unit, a fee of $500.

(B) For a construction permit application involving more than one new emission unit, a fee of $1,000.

(C) For a construction permit application

involving no more than 2 modified emission units, a fee of $500.

(D) For a construction permit application involving more than 2 modified emission units, a fee of $1,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If the source is a new source, i.e., does not currently have an operating permit, an entry fee of $500;

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or a municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) an emission unit designated as a complex source by Agency rulemaking, a fee of $15,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000. This fee shall be submitted at the time the applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held.

(d) If no other fee is applicable under this Section, a construction permit application addressing one or more of the

following shall be subject to a filing fee of $500:

(1) A construction permit application to add or replace a control device on a permitted emission unit.

(2) A construction permit application to conduct a pilot project or trial burn for a permitted emission unit.

(3) A construction permit application for a land remediation project.

(4) (Blank).

(5) A construction permit application to revise an emissions testing methodology or the timing of required emissions testing.

(6) A construction permit application that provides for a change in the name, address, or phone number of any person identified in the permit, or for a change in the stated ownership or control, or for a similar minor administrative permit change at the source.

(e) No fee shall be assessed for a request to correct an issued permit that involves only an Agency error, if the request is received within the deadline for a permit appeal to the Pollution Control Board.

(f) The applicant for a new or revised air pollution construction permit shall submit to the Agency, with the construction permit application, both a certification of the fee that he or she estimates to be due under this Section and the fee itself.

(g) Notwithstanding the requirements of subsection (a) of

Section 39 of this Act, the application for an air pollution construction permit shall not be deemed to be filed with the Agency until the Agency receives the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section. Unless the Agency has received the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section, the Agency is not required to review or process the application.

(h) If the Agency determines at any time that a construction permit application is subject to an additional fee under this Section that the applicant has not submitted, the Agency shall notify the applicant in writing of the amount due under this Section. The applicant shall have 60 days to remit the assessed fee to the Agency.

If the proper fee established under this Section is not submitted within 60 days after the request for further remittance:

(1) If the construction permit has not yet been issued, the Agency is not required to further review or process, and the provisions of subsection (a) of Section 39 of this Act do not apply to, the application for a construction permit until such time as the proper fee is remitted.

(2) If the construction permit has been issued, the Agency may, upon written notice, immediately revoke the construction permit.

The denial or revocation of a construction permit does not excuse the applicant from the duty of paying the fees required under this Section.

(i) The Agency may deny the issuance of a pending air pollution construction permit or the subsequent operating permit if the applicant has not paid the required fees by the date required for issuance of the permit. The denial or revocation of a permit for failure to pay a construction permit fee is subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

(k) If an air pollution construction permittee makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution construction permit. Failure of the Agency to notify the permittee of the permittee's failure to make payment does not excuse or alter the duty of the permittee

to comply with the provisions of this Section.

(l) The Agency may establish procedures for the collection of air pollution construction permit fees.

(m) Fees collected pursuant to this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

(Source: P.A. 97-95, eff. 7-12-11.)

(415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

Sec. 39. Issuance of permits; procedures.

(a) When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such procedures as are necessary to carry out its duties under this Section. In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment. In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with this Act as necessary to correct, detect, or

prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit under this Section, the Agency shall transmit to the applicant within the time limitations of this Section specific, detailed statements as to the reasons the permit application was denied. Such statements shall include, but not be limited to the following:

(i) the Sections of this Act which may be violated if the permit were granted;

(ii) the provision of the regulations, promulgated under this Act, which may be violated if the permit were granted;

(iii) the specific type of information, if any, which the Agency deems the applicant did not provide the Agency; and

(iv) a statement of specific reasons why the Act and the regulations might not be met if the permit were granted.

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for

public hearing are required by State or federal law or regulation, (2) the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p) of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

The Agency shall publish notice of all final permit determinations for development permits for MSWLF units and for significant permit modifications for lateral expansions for existing MSWLF units one time in a newspaper of general circulation in the county in which the unit is or is proposed to be located.

After January 1, 1994 and until July 1, 1998, operating permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days after the date of such a request. The Board shall revise its regulations for the existing State air pollution operating permit program

consistent with this provision by January 1, 1994.

After June 30, 1998, operating permits issued under this Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required to have a federally enforceable State operating permit shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and its rules. Such operating permits shall expire 180 days after the date of such a request. Before July 1, 1998, the Board shall revise its rules for the existing State air pollution operating permit program consistent with this paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this paragraph.

(b) The Agency may issue NPDES permits exclusively under this subsection for the discharge of contaminants from point sources into navigable waters, all as defined in the Federal Water Pollution Control Act, as now or hereafter amended, within the jurisdiction of the State, or into any well.

All NPDES permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act.

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to

regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

The Agency may include, among such conditions, effluent limitations and other requirements established under this Act, Board regulations, the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto, and schedules for achieving compliance therewith at the earliest reasonable date.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of NPDES permits, and which are consistent with the Act or regulations adopted by the Board, and with the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

The Agency, subject to any conditions which may be prescribed by Board regulations, may issue NPDES permits to allow discharges beyond deadlines established by this Act or by regulations of the Board without the requirement of a variance, subject to the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto.

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the

County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.

In the event that siting approval granted pursuant to Section 39.2 has been transferred to a subsequent owner or operator, that subsequent owner or operator may apply to the Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner or operator, the permit applicant shall cause written notice of the permit application to be served upon the appropriate county board or governing body of the municipality that granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval was granted. In that event, the Agency shall conduct an evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner conducted under subsection (i) of Section 39 of this Act.

Beginning August 20, 1993, if the pollution control

facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an unincorporated area of a county with a population of less than 100,000 and includes all or a portion of a parcel of land that was, on April 1, 1993, adjacent to a municipality having a population of less than 5,000, then the local siting review required under this subsection (c) in conjunction with any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than the county board of the county in which the proposed site is located; and for the purposes of that local siting review, any references in this Act to the county board shall be deemed to mean the governing body of that adjacent municipality; provided, however, that the provisions of this paragraph shall not apply to any proposed site which was, on April 1, 1993, owned in whole or in part by another municipality.

In the case of a pollution control facility for which a development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved by the appropriate county board or municipal governing body pursuant to Section 39.2 of this Act.

After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been issued by the Agency, has not accepted waste disposal for 5 or more consecutive calendars years, before that facility may accept any new or additional waste for disposal, the owner and operator must obtain a new operating permit under this Act for that facility unless the owner and operator have applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved or re-approved by the appropriate county board or municipal governing body under Section 39.2 of this Act after the facility ceased accepting waste.

Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, and except for new pollution control facilities governed by Section 39.2, and except for fossil fuel mining facilities, the granting of a permit under this Act shall not relieve the applicant from meeting and securing all necessary zoning approvals from the unit of government having zoning jurisdiction over the proposed facility.

Before beginning construction on any new sewage treatment plant or sludge drying site to be owned or operated by a sanitary district organized under the Metropolitan Water Reclamation District Act for which a new permit (rather than

the renewal or amendment of an existing permit) is required, such sanitary district shall hold a public hearing within the municipality within which the proposed facility is to be located, or within the nearest community if the proposed facility is to be located within an unincorporated area, at which information concerning the proposed facility shall be made available to the public, and members of the public shall be given the opportunity to express their views concerning the proposed facility.

The Agency may issue a permit for a municipal waste transfer station without requiring approval pursuant to Section 39.2 provided that the following demonstration is made:

(1) the municipal waste transfer station was in existence on or before January 1, 1979 and was in continuous operation from January 1, 1979 to January 1, 1993;

(2) the operator submitted a permit application to the Agency to develop and operate the municipal waste transfer station during April of 1994;

(3) the operator can demonstrate that the county board of the county, if the municipal waste transfer station is in an unincorporated area, or the governing body of the municipality, if the station is in an incorporated area, does not object to resumption of the operation of the station; and

(4) the site has local zoning approval.

(d) The Agency may issue RCRA permits exclusively under this subsection to persons owning or operating a facility for the treatment, storage, or disposal of hazardous waste as defined under this Act.

All RCRA permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith as soon as possible. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a RCRA permit.

In the case of a permit to operate a hazardous waste or PCB incinerator as defined in subsection (k) of Section 44, the Agency shall require, as a condition of the permit, that the operator of the facility perform such analyses of the waste to be incinerated as may be necessary and appropriate to ensure the safe operation of the incinerator.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations

pursuant thereto.

The applicant shall make available to the public for inspection all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(e) The Agency may issue UIC permits exclusively under this subsection to persons owning or operating a facility for the underground injection of contaminants as defined under this Act.

All UIC permits shall contain those terms and conditions, including but not limited to schedules of compliance, which may be required to accomplish the purposes and provisions of this Act. The Agency may include among such conditions standards and other requirements established under this Act, Board regulations, the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto, and may include schedules for achieving compliance therewith. The Agency shall require that a performance bond or other security be provided as a condition for the issuance of a UIC permit.

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of UIC

permits, and which are consistent with the Act or regulations adopted by the Board, and with the Safe Drinking Water Act (P.L. 93-523), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection, all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

(f) In making any determination pursuant to Section 9.1 of this Act:

(1) The Agency shall have authority to make the determination of any question required to be determined by the Clean Air Act, as now or hereafter amended, this Act, or the regulations of the Board, including the determination of the Lowest Achievable Emission Rate, Maximum Achievable Control Technology, or Best Available Control Technology, consistent with the Board's regulations, if any.

(2) The Agency shall adopt requirements as necessary to implement public participation procedures, including, but not limited to, public notice, comment, and an opportunity for hearing, which must accompany the processing of

applications for PSD permits. The Agency shall briefly describe and respond to all significant comments on the draft permit raised during the public comment period or during any hearing. The Agency may group related comments together and provide one unified response for each issue raised.

(3) Any complete permit application submitted to the Agency under this subsection for a PSD permit shall be granted or denied by the Agency not later than one year after the filing of such completed application.

(4) ~~(2)~~ The Agency shall, after conferring with the applicant, give written notice to the applicant of its proposed decision on the application including the terms and conditions of the permit to be issued and the facts, conduct or other basis upon which the Agency will rely to support its proposed action.

~~(3) Following such notice, the Agency shall give the applicant an opportunity for a hearing in accordance with the provisions of Sections 10-25 through 10-60 of the Illinois Administrative Procedure Act.~~

(g) The Agency shall include as conditions upon all permits issued for hazardous waste disposal sites such restrictions upon the future use of such sites as are reasonably necessary to protect public health and the environment, including permanent prohibition of the use of such sites for purposes which may create an unreasonable risk of injury to human health

or to the environment. After administrative and judicial challenges to such restrictions have been exhausted, the Agency shall file such restrictions of record in the Office of the Recorder of the county in which the hazardous waste disposal site is located.

(h) A hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific authorization is obtained from the Agency by the generator and disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous. In granting authorization under this Section, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and are consistent with this Act and regulations promulgated by the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as if the Agency refused to grant a permit, pursuant to the provisions of subsection (a) of Section 40 of this Act. For purposes of this subsection (h), the term "generator" has the meaning given in Section 3.205 of this Act, unless: (1) the hazardous waste is treated, incinerated, or

partially recycled for reuse prior to disposal, in which case the last person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or (2) the hazardous waste is from a response action, in which case the person performing the response action is the generator. This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 728.

(i) Before issuing any RCRA permit, any permit for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste incinerator, or any waste-transportation operation, or any permit or interim authorization for a clean construction or demolition debris fill operation, the Agency shall conduct an evaluation of the prospective owner's or operator's prior experience in waste management operations and clean construction or demolition debris fill operations. The Agency may deny such a permit, or deny or revoke interim authorization, if the prospective owner or operator or any employee or officer of the prospective owner or operator has a history of:

(1) repeated violations of federal, State, or local laws, regulations, standards, or ordinances in the operation of waste management facilities or sites or clean construction or demolition debris fill operation facilities or sites; or

(2) conviction in this or another State of any crime which is a felony under the laws of this State, or

conviction of a felony in a federal court; or conviction in this or another state or federal court of any of the following crimes: forgery, official misconduct, bribery, perjury, or knowingly submitting false information under any environmental law, regulation, or permit term or condition; or

(3) proof of gross carelessness or incompetence in handling, storing, processing, transporting or disposing of waste or clean construction or demolition debris, or proof of gross carelessness or incompetence in using clean construction or demolition debris as fill.

(i-5) Before issuing any permit or approving any interim authorization for a clean construction or demolition debris fill operation in which any ownership interest is transferred between January 1, 2005, and the effective date of the prohibition set forth in Section 22.52 of this Act, the Agency shall conduct an evaluation of the operation if any previous activities at the site or facility may have caused or allowed contamination of the site. It shall be the responsibility of the owner or operator seeking the permit or interim authorization to provide to the Agency all of the information necessary for the Agency to conduct its evaluation. The Agency may deny a permit or interim authorization if previous activities at the site may have caused or allowed contamination at the site, unless such contamination is authorized under any permit issued by the Agency.

(j) The issuance under this Act of a permit to engage in the surface mining of any resources other than fossil fuels shall not relieve the permittee from its duty to comply with any applicable local law regulating the commencement, location or operation of surface mining facilities.

(k) A development permit issued under subsection (a) of Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at the end of 2 calendar years from the date upon which it was issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that review of the conditions of the development permit is sought pursuant to Section 40 or 41, or permittee is prevented from commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year period shall be deemed to begin on the date upon which such review process or litigation is concluded.

(l) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

(m) The Agency may issue permits to persons owning or operating a facility for composting landscape waste. In granting such permits, the Agency may impose such conditions as may be necessary to accomplish the purposes of this Act, and as

are not inconsistent with applicable regulations promulgated by the Board. Except as otherwise provided in this Act, a bond or other security shall not be required as a condition for the issuance of a permit. If the Agency denies any permit pursuant to this subsection, the Agency shall transmit to the applicant within the time limitations of this subsection specific, detailed statements as to the reasons the permit application was denied. Such statements shall include but not be limited to the following:

(1) the Sections of this Act that may be violated if the permit were granted;

(2) the specific regulations promulgated pursuant to this Act that may be violated if the permit were granted;

(3) the specific information, if any, the Agency deems the applicant did not provide in its application to the Agency; and

(4) a statement of specific reasons why the Act and the regulations might be violated if the permit were granted.

If no final action is taken by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

The Agency shall issue permits for such facilities upon receipt of an application that includes a legal description of the site, a topographic map of the site drawn to the scale of

200 feet to the inch or larger, a description of the operation, including the area served, an estimate of the volume of materials to be processed, and documentation that:

(1) the facility includes a setback of at least 200 feet from the nearest potable water supply well;

(2) the facility is located outside the boundary of the 10-year floodplain or the site will be floodproofed;

(3) the facility is located so as to minimize incompatibility with the character of the surrounding area, including at least a 200 foot setback from any residence, and in the case of a facility that is developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is located at least 1/8 mile from the nearest residence (other than a residence located on the same property as the facility);

(4) the design of the facility will prevent any compost material from being placed within 5 feet of the water table, will adequately control runoff from the site, and will collect and manage any leachate that is generated on the site;

(5) the operation of the facility will include appropriate dust and odor control measures, limitations on operating hours, appropriate noise control measures for shredding, chipping and similar equipment, management procedures for composting, containment and disposal of non-compostable wastes, procedures to be used for

terminating operations at the site, and recordkeeping sufficient to document the amount of materials received, composted and otherwise disposed of; and

(6) the operation will be conducted in accordance with any applicable rules adopted by the Board.

The Agency shall issue renewable permits of not longer than 10 years in duration for the composting of landscape wastes, as defined in Section 3.155 of this Act, based on the above requirements.

The operator of any facility permitted under this subsection (m) must submit a written annual statement to the Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for composting.

(n) The Agency shall issue permits jointly with the Department of Transportation for the dredging or deposit of material in Lake Michigan in accordance with Section 18 of the Rivers, Lakes, and Streams Act.

(o) (Blank.)

(p) (1) Any person submitting an application for a permit for a new MSWLF unit or for a lateral expansion under subsection (t) of Section 21 of this Act for an existing MSWLF unit that has not received and is not subject to local siting approval under Section 39.2 of this Act shall publish notice of the application in a newspaper of general circulation in the county in which the MSWLF unit is or is proposed to be located.

The notice must be published at least 15 days before submission of the permit application to the Agency. The notice shall state the name and address of the applicant, the location of the MSWLF unit or proposed MSWLF unit, the nature and size of the MSWLF unit or proposed MSWLF unit, the nature of the activity proposed, the probable life of the proposed activity, the date the permit application will be submitted, and a statement that persons may file written comments with the Agency concerning the permit application within 30 days after the filing of the permit application unless the time period to submit comments is extended by the Agency.

When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the Agency, the applicant shall not be required to reissue the notice under this subsection.

(2) The Agency shall accept written comments concerning the permit application that are postmarked no later than 30 days after the filing of the permit application, unless the time period to accept comments is extended by the Agency.

(3) Each applicant for a permit described in part (1) of this subsection shall file a copy of the permit application with the county board or governing body of the municipality in which the MSWLF unit is or is proposed to be located at the same time the application is submitted to the Agency. The permit application filed with the county board or governing body of the municipality shall include all documents submitted

to or to be submitted to the Agency, except trade secrets as determined under Section 7.1 of this Act. The permit application and other documents on file with the county board or governing body of the municipality shall be made available for public inspection during regular business hours at the office of the county board or the governing body of the municipality and may be copied upon payment of the actual cost of reproduction.

(q) Within 6 months after the effective date of this amendatory Act of the 97th General Assembly, the Agency, in consultation with the regulated community, shall develop a web portal to be posted on its website for the purpose of enhancing review and promoting timely issuance of permits required by this Act. At a minimum, the Agency shall make the following information available on the web portal:

(1) Checklists and guidance relating to the completion of permit applications, developed pursuant to subsection (s) of this Section, which may include, but are not limited to, existing instructions for completing the applications and examples of complete applications. As the Agency develops new checklists and develops guidance, it shall supplement the web portal with those materials.

(2) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, permit application forms or portions of permit applications that can be completed and saved electronically, and submitted to

the Agency electronically with digital signatures.

(3) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, an online tracking system where an applicant may review the status of its pending application, including the name and contact information of the permit analyst assigned to the application. Until the online tracking system has been developed, the Agency shall post on its website semi-annual permitting efficiency tracking reports that include statistics on the timeframes for Agency action on the following types of permits received after the effective date of this amendatory Act of the 97th General Assembly: air construction permits, new NPDES permits and associated water construction permits, and modifications of major NPDES permits and associated water construction permits. The reports must be posted by February 1 and August 1 each year and shall include:

(A) the number of applications received for each type of permit, the number of applications on which the Agency has taken action, and the number of applications still pending; and

(B) for those applications where the Agency has not taken action in accordance with the timeframes set forth in this Act, the date the application was received and the reasons for any delays, which may include, but shall not be limited to, (i) the

application being inadequate or incomplete, (ii) scientific or technical disagreements with the applicant, USEPA, or other local, state, or federal agencies involved in the permitting approval process, (iii) public opposition to the permit, or (iv) Agency staffing shortages. To the extent practicable, the tracking report shall provide approximate dates when cause for delay was identified by the Agency, when the Agency informed the applicant of the problem leading to the delay, and when the applicant remedied the reason for the delay.

(r) Upon the request of the applicant, the Agency shall notify the applicant of the permit analyst assigned to the application upon its receipt.

(s) The Agency is authorized to prepare and distribute guidance documents relating to its administration of this Section and procedural rules implementing this Section. Guidance documents prepared under this subsection shall not be considered rules and shall not be subject to the Illinois Administrative Procedure Act. Such guidance shall not be binding on any party.

(t) Except as otherwise prohibited by federal law or regulation, any person submitting an application for a permit may include with the application suggested permit language for Agency consideration. The Agency is not obligated to use the suggested language or any portion thereof in its permitting

decision. If requested by the permit applicant, the Agency shall meet with the applicant to discuss the suggested language.

(u) If requested by the permit applicant, the Agency shall provide the permit applicant with a copy of the draft permit prior to any public review period.

(v) If requested by the permit applicant, the Agency shall provide the permit applicant with a copy of the final permit prior to its issuance.

(w) An air pollution permit shall not be required due to emissions of greenhouse gases, as specified by Section 9.15 of this Act.

(x) If, before the expiration of a State operating permit that is issued pursuant to subsection (a) of this Section and contains federally enforceable conditions limiting the potential to emit of the source to a level below the major source threshold for that source so as to exclude the source from the Clean Air Act Permit Program, the Agency receives a complete application for the renewal of that permit, then all of the terms and conditions of the permit shall remain in effect until final administrative action has been taken on the application for the renewal of the permit.

(Source: P.A. 97-95, eff. 7-12-11; 98-284, eff. 8-9-13.)

(415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

Sec. 40. Appeal of permit denial.

(a) (1) If the Agency refuses to grant or grants with conditions a permit under Section 39 of this Act, the applicant may, within 35 days after the date on which the Agency served its decision on the applicant, petition for a hearing before the Board to contest the decision of the Agency. However, the 35-day period for petitioning for a hearing may be extended for an additional period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. The Board shall give 21 day notice to any person in the county where is located the facility in issue who has requested notice of enforcement proceedings and to each member of the General Assembly in whose legislative district that installation or property is located; and shall publish that 21 day notice in a newspaper of general circulation in that county. The Agency shall appear as respondent in such hearing. At such hearing the rules prescribed in Section 32 and subsection (a) of Section 33 of this Act shall apply, and the burden of proof shall be on the petitioner. If, however, 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.

(2) Except as provided in paragraph (a)(3), if there is no final action by the Board within 120 days after the date on

which it received the petition, the petitioner may deem the permit issued under this Act, provided, however, that that period of 120 days shall not run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act, and provided further that such 120 day period shall not be stayed for lack of quorum beyond 30 days regardless of whether the lack of quorum exists at the beginning of such 120 day period or occurs during the running of such 120 day period.

(3) Paragraph (a)(2) shall not apply to any permit which is subject to subsection (b), (d) or (e) of Section 39. If there is no final action by the Board within 120 days after the date on which it received the petition, the petitioner shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act.

(b) If the Agency grants a RCRA permit for a hazardous waste disposal site, a third party, other than the permit applicant or Agency, may, within 35 days after the date on which the Agency issued its decision, petition the Board for a hearing to contest the issuance of the permit. Unless the Board determines that such petition is duplicative or frivolous, or that the petitioner is so located as to not be affected by the permitted facility, the Board shall hear the petition in accordance with the terms of subsection (a) of this Section and its procedural rules governing denial appeals, such hearing to

be based exclusively on the record before the Agency. The burden of proof shall be on the petitioner. The Agency and the permit applicant shall be named co-respondents.

The provisions of this subsection do not apply to the granting of permits issued for the disposal or utilization of sludge from publicly-owned sewage works.

(c) Any party to an Agency proceeding conducted pursuant to Section 39.3 of this Act may petition as of right to the Board for review of the Agency's decision within 35 days from the date of issuance of the Agency's decision, provided that such appeal is not duplicative or frivolous. However, the 35-day period for petitioning for a hearing may be extended by the applicant for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. If another person with standing to appeal wishes to obtain an extension, there must be a written notice provided to the Board by that person, the Agency, and the applicant, within the initial appeal period. The decision of the Board shall be based exclusively on the record compiled in the Agency proceeding. In other respects the Board's review shall be conducted in accordance with subsection (a) of this Section and the Board's procedural rules governing permit denial appeals.

(d) In reviewing the denial or any condition of a NA NSR permit issued by the Agency pursuant to rules and regulations adopted under subsection (c) of Section 9.1 of this Act, the

decision of the Board shall be based exclusively on the record before the Agency including the record of the hearing, if any, ~~held pursuant to paragraph (f)(3) of Section 39~~ unless the parties agree to supplement the record. The Board shall, if it finds the Agency is in error, make a final determination as to the substantive limitations of the permit including a final determination of Lowest Achievable Emission Rate ~~or Best Available Control Technology~~.

(e) (1) If the Agency grants or denies a permit under subsection (b) of Section 39 of this Act, a third party, other than the permit applicant or Agency, may petition the Board within 35 days from the date of issuance of the Agency's decision, for a hearing to contest the decision of the Agency.

(2) A petitioner shall include the following within a petition submitted under subdivision (1) of this subsection:

(A) a demonstration that the petitioner raised the issues contained within the petition during the public notice period or during the public hearing on the NPDES permit application, if a public hearing was held; and

(B) a demonstration that the petitioner is so situated as to be affected by the permitted facility.

(3) If the Board determines that the petition is not duplicative or frivolous and contains a satisfactory demonstration under subdivision (2) of this subsection,

the Board shall hear the petition (i) in accordance with the terms of subsection (a) of this Section and its procedural rules governing permit denial appeals and (ii) exclusively on the basis of the record before the Agency. The burden of proof shall be on the petitioner. The Agency and permit applicant shall be named co-respondents.

(f) Any person who files a petition to contest the issuance of a permit by the Agency shall pay a filing fee.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/40.3 new)

Sec. 40.3. Review process for PSD permits.

(a) (1) Subsection (a) of Section 40 does not apply to any PSD permit that is subject to subsection (c) of Section 9.1 of this Act. If the Agency refused to grant or grants with conditions a PSD permit, the applicant may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency. If the Agency fails to act on an application for a PSD permit within the time frame specified in paragraph (3) of subsection (f) of Section 39 of this Act, the applicant may, before the Agency denies or issues the final permit, petition for a hearing before the Board to compel the Agency to act on the application in a time that is deemed reasonable.

(2) Any person who participated in the public comment process and is either aggrieved or has an interest that is or

may be adversely affected by the PSD permit may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency. If the petitioner failed to participate in the 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.

The petition shall: (i) include such facts as necessary to demonstrate that the petitioner is aggrieved or has an interest that is or may be adversely affected; (ii) state the issues proposed for review, citing to the record where those issues were raised or explaining why such issues were not required to be raised during the public comment process; and (iii) explain why the Agency's previous response, if any, to those issues is (A) clearly erroneous or (B) an exercise of discretion or an important policy consideration that the Board should, in its discretion, review.

The Board shall hold a hearing upon a petition to contest the decision of the Agency under this paragraph (a)(2) unless the request is determined by the Board to be frivolous or to lack facially adequate factual statements required in this paragraph (a)(2).

The Agency shall appear as respondent in any hearing pursuant to this subsection (a). At such hearing the rules prescribed in Section 32 and subsection (a) of Section 33 of this Act shall apply, and the burden of proof shall be on the

petitioner.

(b) If there is no final action by the Board within 120 days after the date on which it received the petition, the PSD permit shall not be deemed issued; rather, any party shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act. This period of 120 days shall not run for any period of time, not to exceed 30 days, during which the Board is without sufficient membership to constitute the quorum required by subsection (a) of Section 5 of this Act. The 120-day period shall not be stayed for lack of quorum beyond 30 days, regardless of whether the lack of quorum exists at the beginning of the 120-day period or occurs during the running of the 120-day period.

(c) Any person who files a petition to contest the final permit action by the Agency under this Section shall pay the filing fee for petitions for review of permit set forth in Section 7.5.

(d)(1) In reviewing the denial or any condition of a PSD permit issued by the Agency pursuant to rules adopted under subsection (c) of Section 9.1 of this Act, the decision of the Board shall be based exclusively on the record before the Agency unless the parties agree to supplement the record.

(2) If requested by the applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application identified in subsection (f) of Section 39 of this Act during the pendency of the review process. In such cases,

the Board shall stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed by the applicant under this subsection (d). Subsection (b) of Section 10-65 of the Illinois Administrative Procedure Act shall not apply to actions under this subsection (d).

(3) If requested by a party other than the applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application identified in subsection (f) of Section 39 of this Act during the pendency of the review process. In such cases, the Board may stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. The party requesting the stay has the burden of demonstrating the following: (i) that an immediate stay is required in order to preserve the status quo without endangering the public, (ii) that it is not contrary to public policy, and (iii) 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 this subsection (d) and shall remain in effect until a decision is issued by the Board

on the petition. Subsection (b) of Section 10-65 of the Illinois Administrative Procedure Act shall not apply to actions under this paragraph.

(415 ILCS 5/41) (from Ch. 111 1/2, par. 1041)

Sec. 41. Judicial review.

(a) Any party to a Board hearing, any person who filed a complaint on which a hearing was denied, any person who has been denied a variance or permit under this Act, any party adversely affected by a final order or determination of the Board, and any person who participated in the public comment process under subsection (8) of Section 39.5 of this Act may obtain judicial review, by filing a petition for review within 35 days from the date that a copy of the order or other final action sought to be reviewed was served upon the party affected by the order or other final Board action complained of, under the provisions of the Administrative Review Law, as amended and the rules adopted pursuant thereto, except that review shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court. Review of any rule or regulation promulgated by the Board shall not be limited by this section but may also be had as provided in Section 29 of this Act.

(b) Any final order of the Board under this Act shall be based solely on the evidence in the record of the particular proceeding involved, and any such final order for permit

appeals, enforcement actions and variance proceedings, shall be invalid if it is against the manifest weight of the evidence. Notwithstanding this subsection, the Board may include such conditions in granting a variance and may adopt such rules and regulations as the policies of this Act may require. If an objection is made to a variance condition, the board shall reconsider the condition within not more than 75 days from the date of the objection.

(c) No challenge to the validity of a Board order shall be made in any enforcement proceeding under Title XII of this Act as to any issue that could have been raised in a timely petition for review under this Section.

(d) If there is no final action by the Board within 120 days on a request for a variance which is subject to subsection (c) of Section 38 or a permit appeal which is subject to paragraph (a) (3) of Section 40 or paragraph (d) of Section 40.2 <u>or Section 40.3,</u> the petitioner shall be entitled to an Appellate Court order under this subsection. If a hearing is required under this Act and was not held by the Board, the Appellate Court shall order the Board to conduct such a hearing, and to make a decision within 90 days from the date of the order. If a hearing was held by the Board, or if a hearing is not required under this Act and was not held by the Board, the Appellate Court shall order the Board to make a decision within 90 days from the date of the order.

The Appellate Court shall retain jurisdiction during the

pendency of any further action conducted by the Board under an order by the Appellate Court. The Appellate Court shall have jurisdiction to review all issues of law and fact presented upon appeal.

(Source: P.A. 87-1213; 88-1; 88-464; 88-670, eff. 12-2-94.)

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.100				Effective Dates								Original language.
Subpart I: GENERAL PROVISIONS												
203.1000				Incorporations by Reference								Original language.
203.1010				Abbreviations and Acronyms								Original language.
203.1020				Severability	35 IAC 204.120							Same as state language.
203.1030				Definitions	35 IAC 204.200							Same as state language.
203.1040				Actual Emissions		40 CFR 51.165	a	1	xii			Based on federal language, but revised proposed par. (b) to clarify basis of demonstration requirement consistent with portions of existing 35 IAC 203.104.
203.1050				Allowable Emissions		40 CFR 51.165	a	1	xi			Same as federal language, except proposed Section 203.1050(a) adds reference to 40 CFR Parts 62 and 63 consistent with 35 IAC 204.230(a).
203.1060				Available Growth Margin	35 IAC 203.110							Same as state language.
203.1070				Baseline Actual Emissions		40 CFR 51.165	a	1	xxxv			Same as federal language, except proposed par. (b)(3) adds language to define "currently" consistent with 35 IAC 204.240(b)(3). Also, proposed par. (b)(4) adds the term "all" in "for all the emissions units being changed" consistent with 35 IAC 204.240(b)(4).
203.1080				Begin Actual Construction		40 CFR 51.165	a	1	xv			Same as federal language, except uses "operations" instead of "operating" consistent with 35 IAC 204.270.
203.1090				Building, Structure, Facility and Installation		40 CFR 51.165	a	1	ii			Same as federal language, except omits "except the activities of any vessel" in 40 CFR 51.165(A) consistent with 35 IAC 204.290.
203.1100				Commence		40 CRF 51.165	a	1	xvi			Same as federal language.
203.1110				Complete	35 IAC 204.330							Same as state language.
203.1120				Construction		40 CFR 51.165	a	1	xviii			Same as federal language.
203.1130				Dispersion Technique		40 CFR 51.100	hh					Same as federal language, except replaces the term "facility" with "stationary source" throughout the section consistent with 35 IAC 204.350. Also replaces "where" with "when" in proposed par. (b)(2) consistent with 35 IAC 204.350(b)(2).
203.1140				Electric Utility Steam Generating Unit		40 CFR 51.165	a	1	xx			Same as federal language.
203.1150				Emission Offset	35 IAC 203.121							Same as state language.
203.1160				Emissions Unit		40 CFR 51.165	a	1	vii			Same as federal language.
203.1170				Excessive Concentration		40 CFR 51.100	kk					Same as federal language, except omits references to "after October 11, 1983" and "after January 12, 1979" consistent with 35 IAC 204.380.
203.1180				Federally Enforceable		40 CFR 51.165	a	1	xiv			Same as federal language, except adds references to 40 CFR Parts 62 and 63 consistent with 35 IAC 204.400.
203.1190				Fugitive Emissions		40 CFR 51.165	a	1	ix			Same as federal language.
203.1200				Good Engineering Practice		40 CFR 51.100	ii					Same as federal language, except adds proposed par. (d), which includes definition of "stack" per 40 CFR 51.100(ff), consistent with 35 IAC 204.420(b).
203.1210				Lowest Achievable Emission Rate		40 CFR 51.165	a	1	xiii			Same as federal language, except includes reference to CAA and 415 ILCS 5/9.1 consistent with existing 35 IAC 203.301(a)(2).

EXHIBIT 2

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1220	a			Major Modification		40 CFR 51.165	a	1	v	A	1, 2	Same as federal language, except adds "Except as provided in subsections (d) through (f) below." Also, revises "a significant net emissions increase of that pollutant from the major stationary source" to "a significant net emissions increase of that regulated NSR pollutant for which the source is a major stationary source."
203.1220	b			Major Modification		40 CFR 51.165	a	1	v	B		Same as federal language, except adds reference to NO_x consistent with 35 IAC 204.490(b).
203.1220	c			Major Modification		40 CFR 51.165	a	1	v	C		Same as federal language, except for the following which are all consistent with 35 IAC 204.490(c): (i) omits RMRR definition and "note" in 40 CFR 51.165(a)(1)(v)(C)(1); (ii) adds references to state air construction permitting programs in proposed par. (c)(5)-(6); and (iii) omits 40 CFR 51.165 (a)(1)(v)(C)(8) [reserved]. Also omits "federally" in front of "enforceable permit" in proposed subpar. (c)(6) and 40 CFR 51.165(a(1)(v)(C)(9), i.e., exclusion for temporary clean coal demonstration projects because there are no temporary clean coal demonstration projects in Illinois.
203.1220	d			Major Modification	35 IAC 203.207(e)							Same as state language, except changes "increase (other than a de minimis increase)" to "a significant increase".
203.1220	e			Major Modification	35 IAC 203.207(f)							Same as state language.
203.1220	f			Major Modification		40 CFR 51.165	a	1	v	D		Same as federal language.
203.1230	a	1		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(1). Revised existing 35 IAC 203.206(b)(1) language by adding "for ozone" to "a major stationary source for ozone" in proposed par. (a)(1). Also does not include 50 tpy VOM threshold for area within ozone transport region because Illinois is not in the ozone transport region. .
203.1230	a	2		Major Stationary Source		40 CFR 51.165	a	1	iv	A	2	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(3). Also, does not include 100 tpy NO_x thresholds for area within ozone transport region.
203.1230	a	3		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(4).
203.1230	a	4		Major Stationary Source		40 CFR 51.165	a	1	iv	A		Based on federal language, but organized consistent with existing 35 IAC 203.206.
203.1230	a	5		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(5).
203.1230	a	6		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(2).
203.1230	a	7		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Based on federal language, but organized consistent with existing 35 IAC 203.206(b)(6).
203.1230	a	8		Major Stationary Source		40 CFR 51.165	a	1	iv	A	1	Original language to clarify applicable major stationary source threshold for purposes of proposed 35 IAC 203 Subpart R, but consistent with 40 CFR 51.165(a)(1)(IV)(A).
203.1230	b			Major Stationary Source		40 CFR 51.165	a	1	iv	A	3	Based on federal language, but styled after existing 35 IAC 203.206(c).
203.1230	c			Major Stationary Source		40 CFR 51.165	a	1	iv	C		Same as federal language, except adds "but only with respect to those air pollutants that have been regulated for that category" in proposed subpar. (27) consistent with existing 35 IAC 203.206(d)(27).
203.1240				Nearby		40 CFR 51.100	jj					Same as federal language.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1250				Necessary Preconstruction Approvals or Permits		40 CFR 51.165	a	1	xvii			Same as federal language, except adds "permits or approvals required under" to the beginning of the definition consistent with 35 IAC 204.540.
203.1260	a			Net Emissions Increase		40 CFR 51.165	a	1	vi	A		Same as federal language.
203.1260	b			Net Emissions Increase								Original introductory language.
203.1260	b	1		Net Emissions Increase		40 CFR 51.165	a	1	vi	C	1	Based on federal requirement, but worded consistently with existing 35 IAC 203.208(a).
203.1260	b	2		Net Emissions Increase	35 IAC 203.208(b)							Same as state language, which has a partial basis in 40 CFR 51.165(a)(1)(VI)(D).
203.1260	b	3		Net Emissions Increase		40 CFR 51.165	a	1	vi	E		Same as federal language, but organized consistent with existing 35 IAC 203.208(c). Also includes references to state air construction permitting programs.
203.1260	b	4		Net Emissions Increase		40 CFR 51.165	a	1	vi	F		Same as federal language, except replaces term "replacement unit" with "emission unit that replaces an existing emissions unit" consistent with 35 IAC 204.550(f).
203.1260	b	5		Net Emissions Increase		40 CFR 51.165	a	1	vi	G		Same as federal language.
203.1270				Nonattainment Area	35 IAC 203.127							Same as state language, except adds citation to Subpart C of 40 CFR Part 81 consistent with 40 CFR 51.165(a)(2)(i).
203.1280				Nonattainment New Source Review (NA NSR) Permit	415 ILCS 5/3.298							Same as state language.
203.1290				Potential to Emit		40 CFR 51.165	a	1	iii			Same as federal language, except includes "or legally and practicably enforceable by a state or local air pollution control agency" consistent with 35 IAC 204.560.
203.1300				Process Unit	35 IAC 204.580							Same as state language.
203.1310				Project		40 CFR 51.165	a	1	xxxix			Same as federal language.
203.1320				Projected Actual Emissions		40 CFR 51.165	a	1	xxviii			Same as federal language.
203.1330				Reasonable Further Progress	35 IAC 203.131							Same as state language, except omits reference to "applicable air" in existing 35 IAC 203.131.
203.1340	a			Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	A		Same as federal language.
203.1340	b			Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	B		Same as federal language.
203.1340	c			Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	C		Same as federal language.
203.1340	c	1		Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	C	1	Same as federal language, except adds reference to proposed 35 IAC 203.1450 ("Except as provided in Section 203.1450…").
203.1340	c	2		Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	C	2	Based on federal language, but only addresses SO_2 and NO_x. Also adds reference to proposed 35 IAC 203 Subpart R.
203.1340	c	3		Regulated NSR Pollutant		40 CFR 51 App. S	II	A	31	ii	b(4)	Similar to federal language, except organized differently.
203.1340	d			Regulated NSR Pollutant		40 CFR 51.165	a	1	xxxvii	D		Same as federal language.
203.1350				Replacement Unit		40 CFR 51.165	a	1	xxi			Same as federal language, except adds provisions concerning the determination of the basic design parameters of a process unit consistent with 35 IAC 204.620(c).
203.1360				Secondary Emissions		40 CFR 51.165	a	1	viii			Same as federal language, except organized differently.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1370	a			Significant		40 CFR 51.165	a	1	x	A, F		Same as federal language in 40 CFR 51.165(a)(1)(X)(A) and addresses significant emission rate for ammonia per 40 CFR 51.165(a)(a)(X)(F). Except adds references to proposed 35 IAC 203.1370(b), (c), and (d).
203.1370	b			Significant		40 CFR 51.165	a	1	x	D		Consistent with federal language, but structured differently.
203.1370	c			Significant		40 CFR 51.165	a	1	x	B, C		Consistent with federal requirement, though worded similarly to and includes second sentence from existing 35 IAC 203.209(b).
203.1370	d			Significant		40 CFR 51.165	a	1	x	E		Consistent with federal language, except includes NOx (consistent with existing 35 IAC 203.207(f)) and uses the term "significant" instead of "significant net emissions increase."
203.1370	e			Significant								Original language included to address relationship of definition of "significant" to proposed 35 IAC 203 Subpart R.
203.1380				Significant Emissions Increase		40 CFR 51.165	a	1	xxvii			Same as federal language.
203.1390				Stack in Existence		40 CFR 51.100	gg					Same as federal language.
203.1400				Stationary Source		40 CFR 51.165	a	1	i			Same as federal language, except adds sentence to address emissions from nonroad engines/vehicles consistent with the CAA and 35 IAC 204.690.
SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS												
203.1410	a			Applicability		40 CFR 51.165	a	2	i			Same as federal language, except does not include first sentence of federal language requiring adoption of a preconstruction review program to satisfy requirements of the CAA for any area designated nonattainment for any NAAQS. Also adds reference to proposed 35 IAC 203 Subpart R.
203.1410	b			Applicability	35 IAC 204.800(c)							Same as state language.
203.1410	c	1-6		Applicability		40 CFR 51.165	a	2	ii	A - G		Same as federal language, except uses "emissions units involved in the project" in proposed subpar. (c)(2) instead of "emissions units being modified."
203.1410	d			Applicability		40 CFR 51.165	a	6				Based on federal language, but worded and structured consistent with 35 IAC 204.800(e).
203.1410	e			Applicability		40 CFR 51.165	a	2	iii			Based on federal language, but worded similarly to 35 IAC 204.800(f).
203.1420				Effect of Permits		40 CFR 51.165	a	5	i			Same as federal language.
203.1430				Relaxation of a Source-Specific Limitation		40 CFR 51.165	a	5	ii			Same as federal language.
203.1440	a			Prohibitions	35 IAC 203.203(d)							Same as state language, except uses phrase "major stationary source or major modification" instead of "permittee."
203.1440	b			Prohibitions	35 IAC 203.201							Similar to state language. Uses term "begin actual construction" instead of "cause or allow the construction" and uses "regulated NSR pollutant" because these are defined phrases that are used elsewhere in proposed 35 IAC Part 203.
203.1440	c			Prohibitions	35 IAC 203.601							Same as state language.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1450	a			Control of Ozone, PM_{10} and $PM_{2.5}$		40 CFR 51.165	a	8				Same as federal language, except omits reference to ozone transport region because Illinois is not in the ozone transport region.
203.1450	b			Control of Ozone, PM_{10} and $PM_{2.5}$		40 CFR 51.165	a	10				Same as federal language.
203.1450	c			Control of Ozone, PM_{10} and $PM_{2.5}$		40 CFR 51.165	a	13				Based on federal language, except proposed second sentence was revised to reference precursor exclusion in definition of "regulated NSR pollutant."
203.1460				Permit Exemptions Based on Fugitive Emissions		40 CFR 51.165	a	4				Consistent with federal language, but worded the same as existing 35 IAC 203.211.
SUBPART K: STACK HEIGHTS												
203.1500	a			Stack Heights		40 CFR 51.118	a					Consistent with federal language, and worded similarly to 35 IAC 204.1000(a) except uses "regulated NSR pollutant" instead of "air pollutant."
203.1500	b			Stack Heights		40 CFR 51.118	b					Consistent with federal language, and worded similarly to 35 IAC 204.1000(b), except adds "except as provided in subsection (c)."
203.1500	c			Stack Heights		40 CFR 51.118	b					Same as federal language, except adds "notwithstanding subsection (b)."
203.1500	d			Stack Heights		40 CFR 51.118	b					Same as federal language, except references "subsection (a)."
SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY												
203.1600	a			Construction Permit								Original language to clarify IEPA's obligation as to issuance of construction permits, and to address interprecursor trading.
203.1600	b			Construction Permit	35 IAC 203.203(c)							Consistent with state language.
203.1610	a			Public Participation	35 IAC 203.150							Consistent with state language and worded similarly to 35 IAC 204.1320.
203.1610	b			Public Participation								Original language to satisfy requirements of 40 CFR 51.161.
Subpart M: NON-APPLICABILITY RECORDKEEPING AND REPORTING												
203.1700				Recordkeeping and Reporting Requirement for Certain Projects at Major Stationary Sources		40 CFR 51.165	a	6				Consistent with federal language.
203.1700	a-f			Recordkeeping and Reporting Requirement for Certain Projects at Major Stationary Sources		40 CFR 51.165	a	6				Same as federal language.
203.1700	g			Recordkeeping and Reporting Requirement for Certain Projects at Major Stationary Sources		40 CFR 51.165	a	7				Same as federal language, except includes reference to the Illinois Environmental Protection Act instead of 40 CFR Part 70.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
Subpart N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS												
203.1800	a			Lowest Achievable Emission Rate	35 IAC 203.301(b)							Same as state language, except adds language to clarify that LAER will be produced "for each regulated NSR pollutant for which the stationary source is major."
203.1800	b			Lowest Achievable Emission Rate	35 IAC 203.301(c)							Same as state language, except adds language to clarify that LAER will be produced "for each regulated NSR pollutant for which the modification is major." Also uses term "regulated NSR pollutant" and adds the clause "in the emissions unit" to the end of the second sentence.
203.1800	c			Lowest Achievable Emission Rate	35 IAC 203.301(d)							Same as state language.
203.1800	d			Lowest Achievable Emission Rate	35 IAC 203.301(e)							Same as state language (consistent with CAA Sec. 182(c)(7)-(8)).
203.1800	e			Lowest Achievable Emission Rate	35 IAC 203.301(f)							Same as state language, except uses phrase "significant increase in emissions" instead of "increase (other than a de minimis increase) in emissions." (Based on CAA Sec. 182(e)(2)).
203.1810	a			Emissions Offsets								Original introductory language.
203.1810	a	1		Emissions Offsets	35 IAC 203.302(a)							Same as state language, except uses term "increase" instead of "net increase" (the language was corrected since an owner/operator doesn't offset the net increase) and corrects citation to CAA.
203.1810	a	1	A	Emissions Offsets								Original language.
203.1810	a	1	B	Emissions Offsets		40 CFR 51.165	a	3	ii	J		Same as federal language, except omits reference to CAA (. . . "that must be offset in accordance with section 173 of the Act. . . .") since proposed 35 IAC Part 203 will govern offsets.
203.1810	a	1	C	Emissions Offsets	35 IAC 203.302(b)							Same as state language. (Based on CAA Sec. 173(a)(1)(B)).
203.1810	b			Emissions Offsets								Original introductory language.
203.1810	b	1		Emissions Offsets		40 CFR 51.165	a	9	ii			Consistent with federal language, except is worded similarly to, and addresses NO_X consistent with, existing 35 IAC 203.302(a)(1).
203.1810	b	2		Emissions Offsets	35 IAC 203.302(a)(2)							Same as state language, except uses term "existing stationary source" instead of "existing source." (Based on CAA Sec. 182(e)(2)).
203.1810	c			Emissions Offsets								Original introductory language.
203.1810	c	1		Emissions Offsets		40 CFR 51.165	a	3	ii	E		Same as federal language, except uses term "relied upon" instead of "claimed" because the phrase "relied upon" is consistent with CAA Sec. 173(a) and is used elsewhere in the proposed rules.
203.1810	c	2		Emissions Offsets		40 CFR 51 App. S	V					Based on federal language.
203.1810	c	3		Emissions Offsets		40 CFR 51 App. S	V					Based on federal language.
203.1810	d			Emissions Offsets								Original introductory language.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1810	d	1		Emissions Offsets		40 CFR 51.165	a	3	ii	F		Consistent with federal requirement and language in 40 CFR 51 Appendix S, Sec. IV.D.
203.1810	d	2		Emissions Offsets		40 CFR 51.165	a	3	ii	F		Consistent with federal requirement and language in 40 CFR 51 Appendix S, Sec. IV.D.
203.1810	e			Emissions Offsets								Original introductory language.
203.1810	e	1		Emissions Offsets		40 CFR 51.165	a	11				Based on federal language.
203.1810	e	2		Emissions Offsets		40 CFR 51.165	a	3	ii	D		Based on federal language. Worded same as existing 35 IAC 203.303(e). Proposed subpar. (e)(2) does not reference exception based on negligible photochemical reactivity per 40 CFR 51.165(a)(3)(ii)(D); however, this is covered by the use of the term "VOM" in proposed subpar. (e)(2).
203.1810	f			Emissions Offsets								Original introductory language.
203.1810	f	1		Emissions Offsets		40 CFR 51.165	a	3	ii	C	1	Same as federal language, except uses "shall" instead of "may" and omits "federally enforceable" from proposed subpar. (f)(1)(A) since the requirement for offsets to be federally enforceable is already covered in proposed 35 IAC 203.1810(c)(1).
203.1810	f	2		Emissions Offsets		40 CFR 51.165	a	3	ii	C	2	Same as federal language, except uses "shall" instead of "may."
203.1810	g			Emissions Offsets								Original introductory language.
203.1810	g	1		Emissions Offsets								Original introductory language.
203.1810	g	1	A	Emissions Offsets		40 CFR 51.165	a	3	i			Same as federal language.
203.1810	g	1	B	Emissions Offsets		40 CFR 51.165	a	3	ii	A		Same as federal language, except uses "potential to emit" at end of provision instead of "this potential."
203.1810	g	1	C	Emissions Offsets		40 CFR 51.165	a	3	ii	B		Consistent with federal language.
203.1810	g	2		Emissions Offsets		40 CFR 51.165	a	3	ii	G		Consistent with federal language.
203.1810	g	3		Emissions Offsets		CAA Sec. 173	c	2				Based on federal language; worded similarly to existing 35 IAC 203.303(f).
203.1810	h			Emissions Offsets								Original introductory language.
203.1810	h	1		Emissions Offsets		40 CFR 51.165	a	11	ii			Based on federal requirement, but is original language.
203.1810	h	2	A	Emissions Offsets		40 CFR 51.165	a	11	ii			Based on federal requirement, but is original language consistent with 40 CFR 51.165(a)(11)(i).
203.1810	h	2	B	Emissions Offsets		40 CFR 51.165	a	11	ii			Based on federal requirement, but is original language consistent with 40 CFR 51.165(a)(11)(i), except adds reference to 40 CFR 51 Appendix W.
203.1810	h	2	C	Emissions Offsets		40 CFR 51.165	a	11	ii			Based on federal requirement, but is original language consistent with 40 CFR 51.165(a)(11)(i).
203.1810	h	2	D	Emissions Offsets		40 CFR 51.165	a	11	ii			Based on federal requirement, but includes original language to clarify approval of interprecursor trading ratio.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.1820				Compliance by Existing Sources	35 IAC 203.305							Same as state language.
203.1830				Analysis of Alternatives	35 IAC 203.306							Same as state language. (Derived from CAA Sec. 173(a)(5)).
Subpart O: GENERAL MAINTENANCE OF EMISSION OFFSETS												
203.1900				General Maintenance of Emission Offsets	35 IAC 203.701							Same as state language.
Subpart P: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND MOTOR FIRING												
203.2000				Offsetting by Alternative or Innovative Means	35 IAC 203.801							Same as state language. (Derived from CAA Sec. 173(e)).
Subpart Q: PLANTWIDE APPLICABILITY LIMITATION												
203.2100				Applicability		40 CFR 51.165	f	1				Same as federal language.
203.2110				Definitions		40 CFR 51.165	f	2				Consistent with federal language.
203.2120				Actuals PAL		40 CFR 51.165	f	2	i			Same as federal language.
203.2130				Allowable Emissions		40 CFR 51.165	f	2	ii			Consistent with federal language.
203.2140				Best Available Control Technology (BACT)		40 CFR 51.165	a	1	xl			Same as federal language, except adds reference to 40 CFR Part 62 consistent with 35 IAC 204.280.
203.2150				Continuous Emissions Monitoring System (CEMS)		40 CFR 51.165	a	1	xxxi			Same as federal language.
203.2160				Continuous Emissions Rate Monitoring System (CERMS)		40 CFR 51.165	a	1	xxxiv			Same as federal language.
203.2170				Continuous Parameter Monitoring System (CPMS)		40 CFR 51.165	a	1	xxxiii			Same as federal language.
203.2180				Federal Land Manager		40 CFR 51.165	a	1	xlii			Same as federal language.
203.2190				Major Emissions Unit		40 CFR 51.165	f	2	iv			Same as federal language, except omits the example.
203.2200				Plantwide Applicability Limitation (PAL)		40 CFR 51.165	f	2	v			Same as federal language.
203.2210				PAL Effective Date		40 CFR 51.165	f	2	vi			Same as federal language.
203.2220				PAL Effective Period		40 CFR 51.165	f	2	vii			Same as federal language.
203.2230				PAL Major Modification		40 CFR 51.165	f	2	viii			Same as federal language.
203.2240				PAL Permit		40 CFR 51.165	f	2	ix			Same as federal language.
203.2250				PAL Pollutant		40 CFR 51.165	f	2	x			Same as federal language.
203.2260				Predictive Emissions Monitoring System (PEMS)		40 CFR 51.165	a	1	xxxii			Same as federal language.
203.2270				Reasonably Available Control Technology (RACT)		40 CFR 51.100	o					Same as federal language.
203.2280				Significant Emissions Unit		40 CFR 51.165	f	2	xi			Same as federal language, except inserts "applicable" in front of "significant levels" and omits "or in the Act, whichever is lower."

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
203.2290				Small Emissions Unit		40 CFR 51.165	f	2	iii			Same as federal language, except omits "or in the Act, whichever is lower" at the end of the sentence.
203.2300				Permit Application Requirements		40 CFR 51.165	f	3				Same as federal language.
203.2310				General Requirements for Establishing PAL		40 CFR 51.165	f	4				Same as federal language, except the phrase "expressed on a mass basis" is included in proposed subpar. (a)(1) consistent with 35 IAC 204.1800(a)(1).
203.2320				Public Participation Requirements		40 CFR 51.165	f	5				Same as federal language.
203.2330				Setting the 10-Year Actuals PAL Level		40 CFR 51.165	f	6				Same as federal language, except uses term "stationary source" instead of "source" and omits "or under the Act, whichever is lower" from the first sentence.
203.2340				Contents of PAL Permit		40 CFR 51.165	f	7				Same as federal language, except proposed subpar. (f) omits "for each month" after "12-month rolling total" consistent with 34 IAC 204.1830(f).
203.2350				Effective Period and Reopening a PAL Permit		40 CFR 51.165	f	8				Same as federal language, except inserts introductory sentence "The requirements in subsections (a) and (b) apply to actuals PALs" consistent with 35 IAC 204.1840.
203.2360				Expiration of a PAL		40 CFR 51.165	f	9				Same as federal language, except omits "nonattainment" before "major NSR requirements" consistent with 35 IAC 204.1850.
203.2370				Renewal of a PAL		40 CFR 51.165	f	10				Same as federal language.
203.2380				Increasing the PAL During the PAL Effective Period		40 CFR 51.165	f	11				Same as federal language, except omits "nonattainment" before "major NSR process" consistent with 35 IAC 204.1870.
203.2390				Monitoring Requirements		40 CFR 51.165	f	12				Same as federal language.
203.2400				Recordkeeping Requirements		40 CFR 51.165	f	13				Same as federal language.
203.2410				Reporting and Notification Requirements		40 CFR 51.165	f	14				Same as federal language, except omits "but not limited to" in proposed subpar. (a)(3) consistent with 35 IAC 204.1900(a)(3).
203.2420				Transition Requirements		40 CFR 51.165	f	15				Consistent with federal language.

Proposed Part 203 Section	203 Sub	203.Sub1	203.Sub2	Section Title	State Basis	Federal Basis	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
Subpart R: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS												
203.2500	a			Applicability		40 CFR 51.165	b	1				Based on federal requirement, but contains original language.
203.2500	b			Applicability		40 CFR 51.165	b	4				Same as federal language.
203.2500	c			Applicability								Original language to address relationship with 35 IAC Part 204.
203.2510				Criteria		40 CFR 51.165	b	2				Consistent with federal language.
203.2520				Requirements		40 CFR 51.165	b	3				Consistent with federal requirement.
203.2520	a			Requirements		40 CFR 51.165	b	3				Similar to federal language, except uses "shall" instead of "may."
203.2520	b			Requirements								Original language to clarify which proposed 35 IAC Part 203 provisions outside of proposed 35 IAC 203 Subpart R apply to facilities subject to proposed Subpart R.
203.2530	a			Construction Permit								Original language to clarify the Agency's obligations under proposed 35 IAC 203 Subpart R consistent with proposed 35 IAC 203.1600(a).
203.2530	b			Construction Permit								Original language to clarify the Agency's obligations under proposed 35 IAC 203 Subpart R consistent with proposed 35 IAC 203.1600(b).
203.2530	c			Construction Permit		40 CFR 51.161						Consistent with federal requirement; clarifies the public participation procedures applicable to proposed 35 IAC 203 Subpart R.

Provisions of 40 CFR 51.165 Omitted from Proposed Part 203

Federal provision	Section	F.Sub1	F.Sub2	F.Sub3	F.Sub4	F.Sub5	Notes
Major stationary source	40 CFR 51.165	a	1	iv	B		Omitted because the requirement that a major stationary source that is major for VOM shall be considered major for ozone is already addressed by proposed 35 IAC 203.1230(a)(1), which is based on 40 CFR 51.165(a)(1)(iv)(A)(1).
Major modification	40 CFR 51.165	a	1	v	C	9	Omitted because there are no temporary clean coal demonstration projects in Illinois.
Net emissions increase	40 CFR 51.165	a	1	vi	C	3	Omitted because the provision is stayed indefinitely per note at end of 40 CFR 51.165.
Actual emissions	40 CFR 51.165	a	1	xii	C		Omitted because the provision is a discretionary obligation upon IEPA.
Volatile organic compounds	40 CFR 51.165	a	1	xix			Omitted because proposed Part 203 points to the definitions in existing 35 IAC Part 211, unless otherwise noted, and 35 IAC 211.7150 contains a definition for VOM/VOC.
Temporary clean coal technology demonstration project	40 CFR 51.165	a	1	xxii			Omitted because there are no temporary clean coal technology demonstration projects in Illinois.
Clean coal technology	40 CFR 51.165	a	1	xxiii			Omitted because there are no clean coal technology demonstration projects in Illinois.
Clean coal technology demonstration project	40 CFR 51.165	a	1	xxiv			Omitted because there are no clean coal technology demonstration projects in Illinois.
Pollution prevention	40 CFR 51.165	a	1	xxvi			Omitted because the term "pollution prevention" is no longer used in 40 CFR 51.165 and thus is not used in proposed Part 203.
Nonattainment new source review (NSR) program	40 CFR 51.165	a	1	xxx			Omitted because proposed Part 203 uses the term "Major NSR program" instead, consistent with 35 IAC Part 204 and 40 CFR 51.166.
Regulated NSR pollutant	40 CFR 51.165	a	1	xxxvii	C	2	Omitted because the requirement that SO_2 and NO_X be considered regulated NSR pollutants is already covered in proposed 35 IAC 203.1340(c)(2). Also, the requirement that VOM and ammonia be considered regulated NSR pollutants is already covered in proposed 35 IAC 203.1340(c)(3).
Prevention of Significant Deterioration (PSD) permit	40 CFR 51.165	a	1	xli			Omitted because the term "PSD permit" is not used in 40 CFR 51.165 and thus is not used in proposed Part 203.
VOC emissions reductions in ozone transport region	40 CFR 51.165	a	9	iii			Omitted because Illinois is not in the ozone transport region.
VOC offset ratio for ozone nonattainment areas	40 CFR 51.165	a	9	iv			Omitted because this requirement is covered in proposed 35 IAC 203.1810(a)(1), which requires that emissions offsets be "equal to or greater than the allowable emissions from the source or the increase in emissions from the modification. . ."
Ozone interprecursor trading	40 CFR 51.165	a	11	i			Omitted because this provision was vacated in *Sierra Club, et al. v. Environmental Protection Agency, et al* ., 985 F. 3d 1055 (D.C. Cir. 2021).

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

PART 203
MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: MAJOR STATIONARY
SOURCES IN NONATTAINMENT AREAS

Section

SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

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

SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS

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

SUBPART I: GENERAL PROVISIONS

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

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

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

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

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

SOURCE: Adopted and codified at 7 Ill. Reg. 9344, effective July 22, 1983; codified at 7 Ill. Reg. 13588; amended in R85-20 at 12 Ill. Reg. 6118, effective March 22, 1988; amended in R91-24 at 16 Ill. Reg. 13551, effective August 24, 1992; amended in R92-21 at 17 Ill. Reg. 6973, effective April 30, 1993; amended in R93-9 at 17 Ill. Reg. 16630, effective September 27, 1993; amended in R93-26 at 18 Ill. Reg. 6335, effective April 15, 1994; amended in R98-10 at 22 Ill. Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. 14916, effective September 4, 2020; amended in R - at Ill. Reg. , effective .

SUBPART A: GENERAL PROVISIONS

Section 203.100 Effective Dates

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

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

c) On the effective date of Subparts I through R by the USEPA, Subparts A through H of this Part will sunset and no longer apply.

d) Permits under this Part shall be issued pursuant to the provisions of this Part in effect at the time of permit issuance.

SUBPART I: GENERAL PROVISIONS

Section 203.1000 Incorporations by Reference

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

a) 40 CFR Part 51, Subpart I (2019)

b) 40 CFR 51.1006(a)(3) (2019)

c) 40 CFR 52.21 (2020)

d) 40 CFR Part 51, Appendix S (2019)

e) 40 CFR Part 51, Appendix W (2019)

f) 40 CFR Part 60 (2020)

g) 40 CFR Part 61 (2020)

h) 40 CFR Part 62 (2020)

i) 40 CFR Part 63 (2020)

j) 40 CFR Part 81 (2020)

k) *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).

Section 203.1010 Abbreviations and Acronyms

The following abbreviations and acronyms are used in this Part:

$\mu g/m^3$	micrograms per cubic meter
Act	Illinois Environmental Protection Act
Agency	Illinois Environmental Protection Agency
BACT	Best Available Control Technology
Board	Illinois Pollution Control Board
CAA	Clean Air Act
CAAPP	Clean Air Act Permit Program

CEMS	Continuous Emissions Monitoring System
CERMS	Continuous Emissions Rate Monitoring System
CFR	Code of Federal Regulations
CO	carbon monoxide
CO_2	carbon dioxide
CPMS	Continuous Parameter Monitoring System
FR	Federal Register
IPT	Interprecursor Trading
LAER	Lowest Achievable Emission Rate
MW	megawatts
NAAQS	National Ambient Air Quality Standards
NAICS	North American Industry Classification System
NO_2	nitrogen dioxide
NO_X	nitrogen oxides
NSPS	New Source Performance Standards
NSR	New Source Review
NA NSR	Nonattainment New Source Review
O_2	oxygen
PAL	Plantwide Applicability Limitation
PEMS	Predictive Emissions Monitoring System
$PM_{2.5}$	Particulate Matter equal to or less than 2.5 microns in diameter (Fine Particulate Matter)
PM_{10}	Particulate Matter equal to or less than 10 microns in diameter
PSD	Prevention of Significant Deterioration
RACT	Reasonably Available Control Technology
SIC	Standard Industrial Classification
SIP	State Implementation Plan
SO_2	sulfur dioxide
tpy	tons per year
US	United States
USC	United States Code
USEPA	United States Environmental Protection Agency
VOM	Volatile Organic Material

Section 203.1020 Severability

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

Section 203.1030 Definitions

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

Section 203.1040 Actual Emissions

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

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

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

Section 203.1050 Allowable Emissions

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

a) The applicable standards as set forth in 40 CFR Parts 60, 61, 62 and 63;

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

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

Section 203.1060 Available Growth Margin

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

Section 203.1070 Baseline Actual Emissions

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

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

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

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

3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

4) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (a)(2).

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

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

2) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above

an emission limitation that was legally enforceable during the consecutive 24-month period.

3) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. "Currently" in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous change. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the USEPA proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the Agency has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of Section 203.1810(g)(2).

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

5) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3).

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 unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

d) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subsection (a), for other existing emissions units in accordance with the procedures contained in subsection (b), and for a new emissions unit in accordance with the procedures contained in subsection (c).

Section 203.1080 Begin Actual Construction

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

Section 203.1090 Building, Structure, Facility, or Installation

a) "Building, structure, facility, or installation" mean all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual (incorporated by reference in Section 203.1000).

b) Notwithstanding the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this subsection, has the same meaning as in 40 CFR 63.761.

Section 203.1100 Commence

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

a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Section 203.1110 Complete

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

Section 203.1120 Construction

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

Section 203.1130 Dispersion Technique

a) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

1) Using that portion of a stack which exceeds good engineering practice stack height;

2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

3) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

b) "Dispersion technique" does not include:

1) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the stationary source generating the gas stream;

2) The merging of exhaust gas streams when:

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

B) After July 8, 1985 such merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion techniques shall apply only to the emission limitation for the pollutant affected by such change in operation; or

C) Before July 8, 1985, such merging was part of a change in operation at the stationary source that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of

pollutants actually emitted prior to the merging, the Agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

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

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

5) Techniques under subsection (a)(3) which increase final exhaust gas plume rise where the resulting allowable emissions of SO_2 from the stationary source do not exceed 5,000 tpy.

Section 203.1140 Electric Utility Steam Generating Unit

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

Section 203.1150 Emission Offset

"Emission offset" means a creditable emissions reduction used to compensate for the increase in emissions resulting from a new major stationary source or a major modification in accordance with Section 203.1810.

Section 203.1160 Emissions Unit

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in Section 203.1140. For purposes of this Part, there are two types of emissions units:

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

b) An existing emissions unit is any emissions unit that does not meet the requirements of subsection (a). A replacement unit, as defined in Section 203.1350, is an existing emissions unit.

Section 203.1170 Excessive Concentration

"Excessive concentration" is defined for the purpose of determining good engineering practice stack height under Section 203.1200(c) and means:

a) For sources seeking credit for stack height exceeding that established under Section 203.1200(b), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than an ambient air increment under Section 204.900 of 35 Ill. Adm. Code Part 204. The allowable emission rate to be used in making demonstrations of excessive concentration shall be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Agency, an alternative emission rate shall be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 203.1200(b), either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and

c) For sources seeking credit for a stack height determined under Section 203.1200(b) where the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 203.1200(b), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

Section 203.1180 Federally Enforceable

"Federally enforceable" means all limitations and conditions which are enforceable by the USEPA, including those requirements developed pursuant to 40 CFR Parts 60, 61, 62 and 63

(incorporated by reference in Section 203.1000), requirements within the SIP, any permit requirements established pursuant to 40 CFR 52.21 (incorporated by reference in Section 203.1000) or this Part or under regulations approved pursuant to 40 CFR Part 51, Subpart I (incorporated by reference in Section 203.1000), including operating permits issued under an USEPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

Section 203.1190 Fugitive Emissions

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

Section 203.1200 Good Engineering Practice

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

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

b) The following:

1) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR Part 52:

$H_g = 2.5H$,

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

2) For all other stacks:

$H_g = H + 1.5L$

where:
H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,
L = lesser dimension, height or projected width, of nearby structure(s)

provided that the USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

c) The height demonstrated by a fluid model or a field study approved by the USEPA or the Agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric

downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

d) 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 203.1210 Lowest Achievable Emission Rate

"Lowest Achievable Emission Rate" or "LAER" means, for any source, the more stringent rate of emissions based on the following:

a) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

b) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source performance standard adopted by the USEPA pursuant to Section 111 of the CAA and made applicable in Illinois pursuant to Section 9.1 of the Act.

Section 203.1220 Major Modification

a) Except as provided in subsections (d) through (f) below, "major modification" means any physical change, or change in the method of operation of a major stationary source that would result in: a significant emissions increase (as defined in Section 203.1380) of a regulated NSR pollutant (as defined in Section 203.1340); and a significant net emissions increase of that regulated NSR pollutant for which the source is a major stationary source.

b) Any significant emissions increase (as defined in Section 203.1380) from any emissions units or net emissions increase (as defined in Section 203.1260) at a major stationary source that is significant for VOM or NO_X shall be considered significant for ozone.

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

1) Routine maintenance, repair and replacement;

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

A) An order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or

B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

3) Use of an alternative fuel by reason of an order or rule under Section 125 of the CAA (42 USC 7425);

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

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

A) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

B) The source is approved to use under any permit issued under 40 CFR 52.21, this Part, Part 204, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless such change is prohibited under any enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21, 35 Ill. Adm. Code Part 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

7) Any change in ownership at a stationary source.

d) In the case of any major stationary source of VOM or NO_X located in an area classified as serious or severe nonattainment for ozone (other than a source which emits or has the potential to emit 100 tons or more of VOM or NO_X per year), whenever any change at that source results in a significant increase in emissions of VOM or NO_X, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a major modification for purposes of this Part, except such increase shall not be considered a major modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOM or NO_X, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

e) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by the USEPA as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary

source which results in any increase in emissions of VOM or NO_X from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification.

f) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Subpart Q for a PAL for that pollutant. Instead, the definition at Section 203.2230 shall apply.

Section 203.1230 Major Stationary Source

a) The following constitute a major stationary source:

1) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit VOM in an amount equal to or greater than the following:

A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;

B) 50 tpy in an area classified as serious nonattainment for ozone;

C) 25 tpy in an area classified as severe nonattainment for ozone; and

D) 10 tpy in an area classified as extreme nonattainment for ozone.

2) For an area designated as nonattainment for ozone, a major stationary source for ozone is a stationary source which emits or has the potential to emit NO_X in an amount equal to or greater than the following, unless the USEPA has made a finding under Sections 110 and 182(f) of the CAA (42 USC 7410, 7511a(f)) that controlling of emissions of NO_X from such source shall not be required:

A) 100 tpy in an area classified as marginal or moderate nonattainment for ozone;

B) 50 tpy in an area classified as serious nonattainment for ozone;

C) 25 tpy in an area classified as severe nonattainment for ozone; and

D) 10 tpy in an area classified as extreme nonattainment for ozone.

3) For an area designated nonattainment for PM_{10}, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more of PM_{10} in an area classified as moderate nonattainment for PM_{10}; and

B) 70 tpy or more of PM_{10} in an area classified as serious nonattainment for PM_{10}.

4) For an area designated nonattainment for $PM_{2.5}$, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more of direct $PM_{2.5}$ emissions in an area classified as moderate nonattainment for $PM_{2.5}$;

B) 100 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340) in an area classified as moderate nonattainment for $PM_{2.5}$;

C) 70 tpy or more of direct $PM_{2.5}$ emissions in an area classified as serious nonattainment for $PM_{2.5}$; and

D) 70 tpy or more of any individual precursor for $PM_{2.5}$ (as required in Section 203.1340), in an area classified as serious nonattainment for $PM_{2.5}$.

5) For an area designated nonattainment for CO, a major stationary source is a stationary source which emits or has the potential to emit:

A) 100 tpy or more of CO in a nonattainment area, except as provided in subsection (a)(5)(B);

B) 50 tpy or more in an area classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, pursuant to the CAA.

6) For an area designated as nonattainment for NO_2, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of NO_X.

7) For an area designated nonattainment for a pollutant other than those pollutants addressed in subsections (a)(1) through (a)(6) above, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of the pollutant.

8) For stationary sources locating outside designated nonattainment areas for purposes of Subpart R, a major stationary source is a stationary source which emits or has the potential to emit 100 tpy or more of a regulated NSR pollutant.

b) Any physical change that occurs at a stationary source which does not qualify under subsection (a) as a major stationary source will be considered a major

stationary source, if the change would constitute a major stationary source by itself.

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

1) Coal cleaning plants (with thermal dryers);

2) Kraft pulp mills;

3) Portland cement plants;

4) Primary zinc smelters;

5) Iron and steel mills;

6) Primary aluminum ore reduction plants;

7) Primary copper smelters;

8) Municipal incinerators capable of charging more than 50 tons of refuse per day;

9) Hydrofluoric, sulfuric, or nitric acid plants;

10) Petroleum refineries;

11) Lime plants;

12) Phosphate rock processing plants;

13) Coke oven batteries;

14) Sulfur recovery plants;

15) Carbon black plants (furnace process);

16) Primary lead smelters;

17) Fuel conversion plants;

18) Sintering plants;

19) Secondary metal production plants;

20) Chemical process plants—The term “chemical processing plant” shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

23) Taconite ore processing plants;

24) Glass fiber processing plants;

25) Charcoal production plants;

26) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and

27) Any other stationary source categories which, as of August 7, 1980, is being regulated by a standard promulgated under Section 111 or 112 of the CAA (42 USC 7411, 7412), but only with respect to those air pollutants that have been regulated for that category.

Section 203.1240 Nearby

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

a) For purposes of applying the formulae provided in Section 203.1200(b) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile), and

b) For conducting demonstrations under Section 203.1200(c) means not greater than 0.8 km (½ mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if such feature achieves a height 0.8 km from the stack that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 203.1200(b)(2) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

Section 203.1250 Necessary Preconstruction Approvals or Permits

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

Section 203.1260 Net Emissions Increase

a) "Net emissions increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to Section 203.1410(c); and

2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this Section shall be determined as provided in Section 203.1070, except that Section 203.1070(a)(3) and Section 203.1070(b)(4) shall not apply.

b) The following steps determine whether the increase or decrease in emissions is available.

1) Except for increases or decreases in VOM and NO_X emissions in serious and severe ozone nonattainment areas which are addressed in Section 203.1370(c), an increase or decrease in actual emissions is contemporaneous only if it occurs between the date that an increase from a particular change occurs and the date five years before a timely and complete application is submitted for the particular change. It must also occur after either April 24, 1979, or the date the area is designated by the USEPA as a nonattainment area for the pollutant, whichever is more recent.

2) An increase or decrease in actual emissions is creditable:

A) Only if there is not in effect for the source at the time the particular change occurs, a permit issued under this Part which relied on the same increase or decrease in actual emissions; and

B) Only to the extent the new and old levels differ.

3) A decrease in actual emissions is creditable to the extent that:

A) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

B) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change;

C) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and

D) The Agency has not relied on it in issuing any permit under 35 Ill. Adm. Code 201.142 or 201.143 or this Part or 35 Ill. Adm. Code Part 204 and has not relied on it for demonstrating attainment or reasonable further progress.

4) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any emission unit that replaces an existing emissions unit that requires shakedown becomes operational only after a shakedown period, not to exceed 180 days.

5) Section 203.1040(b) shall not apply for determining creditable increases and decreases after a change.

Section 203.1270 Nonattainment Area

An area designated by the USEPA as nonattainment for a given pollutant pursuant to Section 107 of the CAA (42 USC 7407) in Subpart C of 40 CFR Part 81.

Section 203.1280 Nonattainment New Source Review (NA NSR) Permit

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

Section 203.1290 Potential to Emit

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

Section 203.1300 Process Unit

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

Section 203.1310 Project

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

Section 203.1320 Projected Actual Emissions

a) "Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

b) In determining the projected actual emissions under subsection (a) (before beginning actual construction), the owner or operator of the major stationary source:

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

2) Shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

3) Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Section 203.1070 and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

4) In lieu of using the method set out in subsections (b)(1) through (b)(3), may elect to use the emissions unit's potential to emit, in tons per year, as defined underSection 203.1290.

Section 203.1330 Reasonable Further Progress

"Reasonable further progress" means the annual incremental reductions in the emissions of the pollutant as determined by the USEPA pursuant to Part D of Title I of the CAA (42 USC 7501 et seq.) and federal regulations adopted pursuant thereto.

Section 203.1340 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

a) NO_X or VOM;

b) Any pollutant for which a NAAQS has been promulgated;

c) Any pollutant that is identified under this Section as a constituent or precursor of a general pollutant listed under subsection (a) or (b), provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors for purposes of NSR are the following:

1) Except as provided in Section 203.1450, VOM and NO_X are precursors to ozone in all ozone nonattainment areas.

2) SO_2 and NO_X are precursors to $PM_{2.5}$ for a stationary source located in a $PM_{2.5}$ nonattainment area or, for purposes of Subpart R, a stationary source which would cause or contribute to a violation of a $PM_{2.5}$ NAAQS.

3) Except as provided in subsection (c)(3)(A), VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area beginning 24 months after the date of designation of the area as nonattainment for $PM_{2.5}$.

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

B) If the USEPA subsequently disapproves the state's preconstruction review provisions for $PM_{2.5}$ and the NA NSR precursor demonstration, the precursor or precursors addressed by the NA NSR precursor demonstration shall be regulated as a precursor to $PM_{2.5}$ in such area as of the date 24 months from the date of designation, or the effective date of the disapproval, whichever date is later.

d) Direct $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions in NA NSR permits. Compliance with emissions limitations for direct $PM_{2.5}$ emissions and PM_{10} emissions issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable SIP. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Part unless the applicable SIP required condensable particulate matter to be included.

Section 203.1350 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in subsections (a) through (d) are met. No creditable emissions reductions 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 or parameters of the process unit. Basic design parameters of a process unit shall be determined as follows:

1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on British Thermal Units content shall be used for determining the basic design parameter or parameters for a coal-fired electric utility steam generating unit.

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

primary product or primary raw material when selecting a basic design parameter.

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

4) The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameter or parameters specified in subsections (c)(2) and (c)(3).

5) If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameter or parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

6) Efficiency of a process unit is not a basic design parameter.

d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

Section 203.1360 Secondary Emissions

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, 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 203.1370 Significant

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

Nonattainment Pollutant	Regulated NSR Pollutant and Emissions Rate
CO	100 tpy of CO, except pursuant to subsection (b)
NO_2	40 tpy of NO_X
SO_2	40 tpy of SO_2
PM_{10}	15 tpy of PM_{10}
$PM_{2.5}$	10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of SO_2, 40 tpy of NO_X, 40 tpy of VOM, or 70 tpy of ammonia, to the extent that any such pollutant is defined as a precursor for $PM_{2.5}$ in Section 203.1340.
Ozone	40 tpy of VOM or NO_X, except pursuant to subsections (c) and (d).
Lead	0.6 tpy

b) For areas classified as serious nonattainment for CO where stationary sources significantly contribute to ambient CO levels, as determined under rules issued by the USEPA, pursuant to the CAA, notwithstanding the significant emissions rate for CO in subsection (a), significant means, an increase in actual emissions of CO that would result from any physical change in, or change in the method of operation of, a major stationary source, if such increase equals or exceeds 50 tpy.

c) For areas classified as serious or severe nonattainment for ozone, notwithstanding the significant emissions rate for ozone in subsection (a), an increase in emissions of VOM or NO_X shall be considered significant if the net emissions increase of such air pollutant from a stationary source located within such area exceeds 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred. This provision shall become effective beginning November 15, 1992, or such later date that an area is classified as a serious or severe nonattainment area for ozone.

d) For areas classified as extreme nonattainment for ozone, notwithstanding the significant emissions rate for ozone in subsection (a), any increase in emissions of VOM or NO_X from any emissions unit at a major stationary source of VOM or NO_X shall be considered significant.

e) For major stationary sources located outside designated nonattainment areas for purposes of Subpart R, an increase in emissions of a regulated NSR pollutant shall be considered significant if it would equal or exceed the rate listed in subsection (a), notwithstanding the attainment status in the area.

Section 203.1380 Significant Emissions Increase

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section 203.1370) for that pollutant.

Section 203.1390 Stack in Existence

"Stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time.

Section 203.1400 Stationary Source

"Stationary source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant. Emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in Section 216 of the CAA (42 USC 7550) are not a part of a stationary source.

SUBPART J: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1410 Applicability

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

b) No new major stationary source or major modification to which the requirements of Sections 203.1410, 203.1420, 203.1430, 203.1440, 203.1800, 203.1810, 203.1820, 203.1830, or 203.2000 apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

c) The requirements of this Part will be applied in accordance with subsections (c)(1) through (c)(6).

1) Except as otherwise provided in subsection (e) and in Sections 203.1220(d)-(e), and consistent with the definition of major modification contained in Section 203.1220, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 203.1380), and a significant net emissions increase (as defined in Section 203.1260 and

Section 203.1370). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

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

3) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 203.1320) and the baseline actual emissions (as defined in Section 203.1070), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

4) Actual-to-potential test for projects that only involve construction of a new emissions unit or units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined inSection 203.1290) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 203.1070) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 203.1370).

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

6) The "sum of the difference" as used in subsections (c)(3) through (c)(5) shall include both increases and decreases in emissions calculated in accordance with those subsections.

d) Except as otherwise provided in Section 203.1700(f)(2), the provisions of Section 203.1700 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects

at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 203.1700(f), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

e) For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under Section 203.2100 through Section 203.2420.

Section 203.1420 Effect of Permits

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

Section 203.1430 Relaxation of a Source-Specific Limitation

At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Part shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 203.1440 Prohibitions

a) No major stationary source or major modification shall violate any condition contained in a construction permit issued for a new major stationary source or major modification which is subject to this Part.

b) In any nonattainment area, no person shall begin actual construction of a new major stationary source or major modification that is major for the regulated NSR pollutant for which the area is designated as nonattainment area under Sections 107(d)(1)(A)(i) of the CAA (42 USC 7407(d)(1)(A)(i)), except as in compliance with this Subpart and Subpart N. Revisions to this Part which were adopted to implement the CAA Amendments of 1990 shall not apply to any new major stationary source or major modification for which a permit application was submitted by June 30, 1992, for PM_{10}; by May 15, 1992, for SO_2; or by November 15, 1992, for VOM and NO_X emissions for sources located in all ozone nonattainment areas.

c) No person shall cause or allow the operation of a new major stationary source or major modification subject to the requirements of Subpart N, except as in compliance with applicable LAER provisions established pursuant to Section 203.1800 for such source or modification.

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

a) The provisions of this Part applicable to major stationary sources and major modifications of VOM shall apply to NO_X emissions from major stationary sources and major modifications of NO_X in any ozone nonattainment area, except in ozone nonattainment areas where the USEPA has granted a NO_X waiver applying the standards set forth under section 182(f) of the CAA (42 USC 7511a(f)) and the waiver continues to apply.

b) The provisions of this Part applicable to major stationary sources and major modifications of PM_{10} shall also apply to major stationary sources and major modifications of PM_{10} precursors, except where the USEPA determines that such sources do not contribute significantly to PM_{10} levels that exceed the PM_{10} ambient standards in the area.

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

Section 203.1460 Permit Exemption Based on Fugitive Emissions

The provisions of this Part shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable as evidenced by 35 Ill. Adm. Code 201.122, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the categories enumerated in Section 203.1230(c).

SUBPART K: STACK HEIGHTS

Section 203.1500 Stack Heights

a) The degree of emission limitation required for control of any regulated NSR pollutant under this Part shall not be affected by:

1) So much of the stack height of any source as exceeds good engineering practice, or

2) Any other dispersion technique.

b) Except as provided in subsection (c), subsection (a) shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

c) Notwithstanding subsection (b), subsection (a) shall apply where regulated NSR pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the CAA (42 USC 7411(a)(3)), which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970.

d) Subsection (a) shall not apply with respect to coal-fired steam electric generating units subject to the provisions of Section 118 of the CAA (42 USC 7418), which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

SUBPART L: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 203.1600 Construction Permit

a) The Agency shall only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Part, other than this Subpart or Subpart R, if the Agency determines all applicable requirements of this Part, other than this Subpart and Subpart R, are satisfied. This includes the requirements in Section 203.1810(h) if IPT would be relied upon for all or a portion of the emissions offsets that must be provided for such source or modification.

b) The Agency shall include in any NA NSR permit conditions specifying the manner in which the applicable requirements of Subpart N apply.

Section 203.1610 Public Participation

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

b) In addition to the applicable requirements of 35 Ill. Adm. Code Part 252:

1) The notice for the comment period or public hearing prepared by the Agency shall include information on how to access the draft permit and the administrative record for the draft permit.

2) The Agency shall also send a copy of this notice to:

A) The USEPA;

B) All other state and local air pollution control agencies having jurisdiction in the region in which such new or modified source would be or is located; and

C) Any other agency in the region having responsibility for implementing the procedures required under this Part.

3) The Project Summary, Statement of Basis or Fact Sheet that accompanies the draft of a permit that would be issued pursuant to this Part or the draft of a modification permit that would be issued pursuant to this Part shall describe the basis of the Agency's proposed decision to grant the permit and include a discussion of the Agency's analysis of the effect of the construction or modification on ambient air quality, including the Agency's proposed action.

SUBPART M: NON-APPLICABILITY RECORDKEEPING AND REPORTING

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

Except as otherwise provided in subsection (f), the provisions of this Section apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions unit or units at a major stationary source in a nonattainment area (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (f), that a project that is not a major modification for the pollutant may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 203.1320(b)(1) through (b)(3) for calculating projected actual emissions.

a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

1) A description of the project;

2) Identification of the emissions unit or units whose emissions of a regulated NSR pollutant could be affected by the project; and

3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 203.1320(b)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

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

c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (a)(2); and calculate and maintain a record of the

annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at such emissions unit.

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

e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions (as documented and maintained pursuant to subsection (a)(3)), by a significant amount (as defined in Section 203.1370) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subsection (a)(3). Such report shall be submitted to the Agency within 60 days after the end of such year. The report shall contain the following:

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

2) The annual emissions as calculated pursuant to subsection (c); and

3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

f) A "reasonable possibility" under this Section occurs when the owner or operator calculates the project to result in either:

1) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in Section 203.1380 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

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

g) The owner or operator of the source shall make the information required to be documented and maintained pursuant to this Section available for review upon a request for inspection by the Agency or the USEPA or the general public pursuant to the requirements contained in Section 39.5(8)(e) of the Act.

SUBPART N: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.1800 Lowest Achievable Emission Rate

a) The owner or operator of a new major stationary source shall demonstrate that the control equipment and process measures applied to the source will produce LAER for each regulated NSR pollutant for which the stationary source is major.

b) Except as provided in subsections (d) or (e), the owner or operator of a major modification shall demonstrate that the control equipment and process measures applied to the major modification will produce LAER for each regulated NSR pollutant for which the modification is major. This requirement applies to each emissions unit at which a net increase in emissions of the regulated NSR pollutant has occurred or would occur as a result of a physical change or change in the method of operation in the emissions unit.

c) The owner or operator shall provide a detailed showing that the proposed emission limitations constitute LAER. Such demonstration shall include:

1) A description of the manner in which the proposed emission limitation was selected, including a detailed listing of information resources,

2) Alternative emission limitations, and

3) Such other reasonable information as the Agency may request as necessary to determine whether the proposed emission limitation is LAER.

d) If the owner or operator of a major stationary source (other than a source which emits or has the potential to emit 100 tpy or more of VOM or NO_X) located in an area classified as serious or severe nonattainment for ozone does not elect to provide internal offsets for a change at the source in accordance with Section 203.1220(d), such change shall be considered a major modification for purposes of this Part, but in applying this Section in the case of any such modification, the BACT, as defined in section 169 of the CAA (42 USC 7479), shall be substituted for the LAER. BACT shall be determined in accordance with policies and procedures published by the USEPA.

e) In the case of any major stationary source of VOM or NO_X located in an area classified as serious or severe nonattainment for ozone which emits or has the potential to emit 100 tpy or more of VOM or NO_X, respectively, whenever any change at that source results in a significant increase in emissions of VOM or NO_X, respectively, from any discrete operation, unit, or other pollutant emitting

activity at the source, such increase shall be considered a major modification for purposes of this Part, except that if the owner or operator elects to offset the increase by a greater reduction in emissions of VOM or NO_X, respectively, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of this Section concerning LAER shall not apply.

Section 203.1810 Emissions Offsets

a) The general requirements for emissions offsets are:

1) The owner or operator of a new major stationary source or major modification shall provide emissions offsets equal to or greater than the allowable emissions from the source or the increase in emissions from the modification sufficient to allow the Agency to determine that the source or modification will not interfere with reasonable further progress as set forth in Section 173 of the CAA (42 USC 7503).

A) Emissions offsets are required for the following pollutants for which the area is designated nonattainment or precursors to such pollutant as follows:

i) For a new major stationary source, each regulated NSR pollutant for which the stationary source is major.

ii) For a major modification, each regulated NSR pollutant for which the modification is major.

B) The total tonnage of increased emissions, in tpy, resulting from a major modification that must be offset shall be determined by summing the difference between the allowable emissions after the modification, as defined under Section 203.1050, and the actual emissions before the modification, as defined under Section 203.1040, for each emissions unit.

C) The Agency shall allow the use of all or some portion of the available growth margin to satisfy this subsection if the owner or operator can present evidence that the possible sources of emissions offsets were investigated, none were available at that time and the new or modified major stationary source is located in a zone (within the nonattainment area) identified by the USEPA, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted.

b) The ratios for emissions offsets in ozone nonattainment areas are:

1) For new major stationary sources or major modifications in ozone nonattainment areas, the ratio of total emissions reductions provided by emission offsets for VOM or NO_X to total increased emissions of such pollutants shall be at least as follows:

A) 1.1 to 1 in areas classified as marginal;

B) 1.15 to 1 in areas classified as moderate;

C) 1.2 to 1 in areas classified as serious;

D) 1.3 to 1 in areas classified as severe; and

E) 1.5 to 1 in areas classified as extreme.

2) The offset requirement provided in subsection (b)(1)(E) shall not be applicable in extreme areas to a modification of an existing stationary source:

A) If such modification consists of installation of equipment required to comply with the SIP or the CAA; or

B) If the owner or operator of the stationary source elects to offset the increase by a greater reduction in emissions of such pollutant from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

c) The enforceability requirements for emissions offsets are:

1) All emissions reductions relied upon as emissions offsets shall be federally enforceable.

2) Except as provided as follows, emissions offsets must be enforceable by the Agency and under the CAA. If emissions reductions are to be obtained in a State that neighbors Illinois, the emissions reductions committed to must be enforceable by the neighboring State and/or local agencies and under the CAA.

3) Except as provided as follows, emissions offsets must be accomplished prior to initial start-up of the new major stationary source or major modification. Where the new major stationary source or the major modification is a replacement for an existing stationary source or emissions unit that is being shut down in order to provide necessary offsets, the Agency shall allow up to 180 days for shakedown of the new major stationary source or major modification before the existing stationary source or emissions unit is required to cease operation.

d) Sources providing emissions reductions to fulfill the requirements of this Section must fulfill the following location requirements.

1) The emissions reductions must be achieved in the same nonattainment area as the increase being offset, except as provided in subsection (d)(2).

2) An owner or operator may obtain the necessary emissions reductions from another nonattainment area where such other area has an equal or higher nonattainment classification than the area in which the new or modified major stationary source is located and the emissions from such other area contribute to a violation of the NAAQS in the nonattainment area in which the new or modified major stationary source is located.

e) Pollutants for emission offsets shall be determined as follows:

1) Except as provided in subsection (h), which addresses interprecursor trading for $PM_{2.5}$, emission reductions must be for the pollutant for which emission offsets are required, e.g., reductions in CO emissions cannot be used as emission offsets for increases in emissions of SO_2 reductions.

2) Replacement of one VOM with another of lesser reactivity does not constitute an emissions reduction.

f) Emissions reductions from shutdowns or curtailments shall be credited as follows:

1) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours shall be credited for offsets if they meet the following requirements:

A) Such reductions are surplus, permanent, and quantifiable; and

B) The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this Subpart, the Agency shall consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emissions units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.

2) Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (f)(1)(B) shall be credited only if:

A) The shutdown or curtailment occurred on or after the date the application for a construction permit is filed; or

B) The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (f)(1)(A).

g) The determination of emissions reductions for offsets must be made as follows:

1) Credit for emissions reductions used as offsets shall be determined as follows:

A) The baseline for determining credit for emissions reductions is the emissions limit under the applicable SIP in effect at the time the application for a construction permit is filed, except that the offset baseline shall be the actual emissions of the source from which offset credit is obtained where:

i) The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within the designated nonattainment area; or

ii) The applicable SIP does not contain an emissions limitation for that source or source category.

B) Where the emissions limit under the applicable SIP allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below the potential to emit.

C) For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable SIP for the type of fuel being burned at the time the application for a construction permit is filed. If the emissions offset is to be produced by a switch to a cleaner fuel at some future date, offset credit shall be subject to the following limitations:

i) Emissions offset credit based on the allowable (or actual) emissions for the fuels involved is allowed only if the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date.

ii) Emissions offset credit shall be allowed only if the owner or operator provides evidence that long-term supplies of the cleaner fuel are available.

2) Emissions reductions shall not be credited for offsets to the extent they have been previously relied on by the Agency in issuing any permit

pursuant to 35 Ill. Adm. Code 201.142 or 201.143 or this Part or for demonstrating attainment or reasonable further progress.

3) Emissions reductions otherwise required by the CAA (42 USC 7401 et seq.) shall not be creditable as emissions offsets. Emissions reductions which are not otherwise required by the CAA shall be creditable as emissions reductions for such purposes if such emissions reductions meet the requirements of this Section.

h) For a new major stationary source or major modification located in an area designated nonattainment for $PM_{2.5}$, IPT between precursors of $PM_{2.5}$ identified in Section 203.1340, or between direct $PM_{2.5}$ emissions and a precursor of $PM_{2.5}$, shall be allowed to satisfy the applicable offset requirement if:

1) Such IPT is based on an IPT ratio that will provide an equivalent or greater air quality benefit with respect to ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area. At a minimum, one ton of emissions reductions shall be provided for one ton of emissions increases; and

2) The permit application submitted by the owner or operator of the source or modification includes the following:

A) A proposed IPT ratio, with accompanying calculations.

B) A demonstration that this proposed IPT ratio is based on the results of an analysis that is consistent with Appendix W to 40 CFR Part 51. The demonstration must also show that the proposed IPT ratio would provide an equivalent or greater air quality benefit than offsets of the emitted pollutant or precursor would achieve with respect to ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area; and

C) A description of the model or models and analysis that were used to develop the proposed IPT ratio; and

D) Prior to making a final determination on the IPT ratio, the Agency shall submit the IPT ratio to EPA for approval and shall receive approval as a revision of the SIP.

Section 203.1820 Compliance by Existing Sources

The owner or operator shall demonstrate that all major stationary sources which he or she owns or operates (or which are owned or operated by any entity controlling or controlled by, or under common control, with the owner or operator) in Illinois are in compliance, or on a schedule for compliance, with all applicable state and federal air pollution control requirements. For purposes of this Section, a schedule for compliance must be federally enforceable or contained in an order of the Board or a court decree.

Section 203.1830 Analysis of Alternatives

The owner or operator shall demonstrate that benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification, based upon an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source.

SUBPART O: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section 203.1900 General Maintenance of Emission Offsets

No person shall cease to maintain emission offsets which were provided for a source or modification which is subject to this Part.

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

Section 203.2000 Offsetting by Alternative or Innovative Means

A source may offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

a) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990;

b) The source demonstrates to the satisfaction of the Agency that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source;

c) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security; and

d) The source will comply with an alternative measure, imposed by the Agency or Board, designed to offset any emission increases beyond permitted levels not directly offset by the source.

SUBPART Q: PLANTWIDE APPLICABILITY LIMITATION

Section 203.2100 Applicability

a) The Agency may approve the use of an actuals PAL for any existing major stationary source, except as provided in subsection (b), if the PAL meets the

requirements in this Subpart. The term "PAL" shall mean "actuals PAL" throughout this Subpart.

b) The Agency shall not allow an actuals PAL for VOM or NO_X for any major stationary source located in an extreme ozone nonattainment area.

c) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements in this Subpart, and complies with the PAL permit:

1) Is not a major modification for the PAL pollutant;

2) Does not have to be approved through the major NSR program; and

3) Is not subject to the provisions in Section 203.1430 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

d) Except as provided under subsection (c)(3), a major stationary source shall continue to comply with all applicable federal or State requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.

Section 203.2110 Definitions

For the purposes of this Subpart, the definitions in Section 203.2120 through Section 203.2290 apply. When a term is not defined in these sections, it shall have the meaning given in Subpart I of this Part, Part 211, or in the CAA.

Section 203.2120 Actuals PAL

"Actuals PAL" for a major stationary source means a PAL based on the baseline actual emissions (as defined in Section 203.1070) of all emissions units (as defined in Section 203.1160) at the source, that emit or have the potential to emit the PAL pollutant.

Section 203.2130 Allowable Emissions

"Allowable emissions" means "allowable emissions" as defined in Section 203.1050, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit (as defined in Section 203.1290).

Section 203.2140 Best Available Control Technology (BACT)

"Best available control technology" or "BACT" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification that the Agency, on a case-by-case basis, taking into account energy,

environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, 62, or 63 (as incorporated by reference in Section 203.1000). If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

Section 203.2150 Continuous Emissions Monitoring System (CEMS)

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

Section 203.2160 Continuous Emissions Rate Monitoring System (CERMS)

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

Section 203.2170 Continuous Parameter Monitoring System (CPMS)

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this Subpart to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

Section 203.2180 Federal Land Manager

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

Section 203.2190 Major Emissions Unit

"Major emissions unit" means:

a) Any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area; or

b) Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the CAA for nonattainment areas.

Section 203.2200 Plantwide Applicability Limitation (PAL)

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

Section 203.2210 PAL Effective Date

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

Section 203.2220 PAL Effective Period

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

Section 203.2230 PAL Major Modification

"PAL major modification" means, notwithstanding Section 203.1220 and Section 203.1260 (the definitions for major modification and net emissions increase), any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

Section 203.2240 PAL Permit

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

Section 203.2250 PAL Pollutant

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

Section 203.2260 Predictive Emissions Monitoring System (PEMS)

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

Section 203.2270 Reasonably Available Control Technology (RACT)

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

a) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

b) The social, environmental, and economic impact of such controls; and

c) Alternative means of providing for attainment and maintenance of such standard.

Section 203.2280 Significant Emissions Unit

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the applicable significant level (as defined in Section 203.1370) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in Section 203.2190.

Section 203.2290 Small Emissions Unit

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the applicable significant level for that PAL pollutant, as defined in Section 203.1370.

Section 203.2300 Permit Application Requirements

As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the Agency for approval:

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

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

c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by Section 203.2400(a).

Section 203.2310 General Requirements for Establishing PAL

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

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

2) The PAL shall be established in a PAL permit that meets the public participation requirements in Section 203.2320.

3) The PAL permit shall contain all the requirements of Section 203.2340.

4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

5) Each PAL shall regulate emissions of only one pollutant.

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

7) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in Section 203.2390 through Section 203.2410 for each emissions unit under the PAL through the PAL effective period.

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

Section 203.2320 Public Participation Requirements

PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 35 Ill. Adm. Code Part 252. This includes the requirement that the Agency provide the public with notice of the proposed approval of a PAL permit and at least a 30-day period for submittal of public comment. The Agency must address all material comments before taking final action on the permit.

Section 203.2330 Setting the 10-Year Actuals PAL Level

a) Except as provided in subsection (b), the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions (as defined in Section 203.1070) of the PAL pollutant for each emissions unit at the stationary source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 203.1370. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency shall specify a reduced PAL level or levels in tons per year in the PAL permit to become effective on the future compliance date or dates of any applicable federal or State regulatory requirement or requirements that the Agency is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million NO_X to a new rule limit of 30 parts per million, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline actual emissions of such unit or units.

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 203.2340 Contents of the PAL Permit

The PAL permit must contain, at a minimum:

a) The PAL pollutant and the applicable source-wide emission limitation in tons per year.

b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

c) Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL in accordance with Section 203.2370 before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Agency.

d) A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.

e) A requirement that, once the PAL expires, the major stationary source is subject to the requirements of Section 203.2360.

f) The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by Section 203.2400(a).

g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under Section 203.2390.

h) A requirement to retain the records required under Section 203.2400 on site. Such records may be retained in an electronic format.

i) A requirement to submit the reports required under Section 203.2410 by the required deadlines.

j) Any other requirements that the Agency deems necessary to implement and enforce the PAL.

Section 203.2350 Effective Period and Reopening a PAL Permit

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

a) PAL effective period. The Agency shall specify a PAL effective period of 10 years.

b) Reopening of the PAL permit.

1) During the PAL effective period, the Agency must reopen the PAL permit to:

A) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as emissions offsets pursuant to Section 203.1810; and

C) Revise the PAL to reflect an increase in the PAL as provided under Section 203.2380.

2) The Agency shall have discretion to reopen the PAL permit for the following:

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

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

C) Reduce the PAL if the Agency determines that a reduction is necessary to avoid causing or contributing to a NAAQS, or to a violation of an ambient air increment established in Subpart D of 35 Ill. Adm. Code Part 204, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

c) Except for the permit reopening in subsection (b)(1)(A) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Section 203.2320.

Section 203.2360 Expiration of a PAL

Any PAL that is not renewed in accordance with the procedures in Section 203.2370 shall expire at the end of the PAL effective period, and the requirements in this Section shall apply.

a) Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the procedures in subsections (a)(1) and (2).

1) Within the time frame specified for PAL renewals in Section 203.2370(b), the major stationary source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Agency) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 203.2370(e), such distribution shall be made as if the PAL had been adjusted.

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

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

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

d) Any physical change or change in the method of operation at the major stationary source will be subject to major NSR requirements if such change meets the definition of major modification in Section 203.1220.

e) The major stationary source owner or operator shall continue to comply with any State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period except for those emission limitations that had been established pursuant to Section 203.1420, but were eliminated by the PAL in accordance with the provisions in Section 203.2100(c)(3).

Section 203.2370 Renewal of a PAL

a) The Agency shall follow the procedures specified in Section 203.2320 in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Agency.

b) Application deadline. A major stationary source owner or operator shall submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

c) Application requirements. The application to renew a PAL permit shall contain:

1) The information required in Section 203.2300(a) through (c).

2) A proposed PAL level.

3) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

4) Any other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL.

d) PAL adjustment. In determining whether and how to adjust the PAL, the Agency shall consider the options outlined in subsections (d)(1) and (2). However, in no case may any such adjustment fail to comply with subsection (d)(3).

1) If the emissions level calculated in accordance with Section 203.2330 is equal to or greater than 80 percent of the PAL level, the Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or

2) The Agency may set the PAL at a level that it determines to be more representative of the stationary source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Agency in its written rationale.

3) Notwithstanding subsections (d)(1) and (2):

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

B) The Agency shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 203.2380 (increasing a PAL).

e) If the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Agency has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or CAAPP permit renewal, whichever occurs first.

Section 203.2380 Increasing the PAL During the PAL Effective Period

a) The Agency may increase a PAL emission limitation only if the major stationary source complies with the provisions in subsections (a)(1) through (4).

1) The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit or units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

2) As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions unit or units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit

is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

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

4) The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b) The Agency shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT equivalent controls as determined in accordance with subsection (a)(2)), plus the sum of the baseline actual emissions of the small emissions units.

c) The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of Section 203.2320.

Section 203.2390 Monitoring Requirements

a) General requirements.

1) Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by 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 Agency.

3) Notwithstanding subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) if approved by the Agency.

4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.

b) Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (c) through (i):

1) Mass balance calculations for activities using coatings or solvents;

2) CEMS;

3) CPMS or PEMS; and

4) Emission factors.

c) Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

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

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

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

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

1) CEMS must comply with applicable Performance Specifications found in 40 CFR Part 60, Appendix B; and

2) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the

PAL pollutant emissions across the range of operation of the emissions unit; and

2) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Agency, while the emissions unit is operating.

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

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

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

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

h) Notwithstanding the requirements in subsections (c) through (g) of this Section, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency shall, at the time of permit issuance:

1) Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter or parameters and the PAL pollutant emissions is a violation of the PAL.

i) Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Agency. Such testing must occur at least once every 5 years after issuance of the PAL.

Section 203.2400 Recordkeeping Requirements

a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subpart and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

1) A copy of the PAL permit application and any applications for revisions to the PAL; and

2) Each annual certification of compliance pursuant to Section 39.5(7)(p)(v) of the Act and the data relied on in certifying the compliance.

Section 203.2410 Reporting and Notification Requirements

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

a) Semi-annual report. The semi-annual report shall be submitted to the Agency within 30 days of the end of each reporting period. This report shall contain the information required in subsections (a)(1) through (7).

1) The identification of owner and operator and the permit number.

2) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to Section 203.2400(a).

3) All data relied upon, including any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the

calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by Section 203.2390(g).

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

b) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to 40 CFR 70.6(a)(3)(iii)(B) shall satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports shall contain the following information:

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

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

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

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

c) Re-validation results. The owner or operator shall submit to the Agency the results of any re-validation test or method within 3 months after completion of such test or method.

Section 203.2420 Transition Requirements

The Agency may not issue a PAL that does not comply with the requirements in this Subpart.

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

Section 203.2500 Applicability

a) In any area designated as attainment or unclassifiable under Sections 107(d)(l)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(l)(A)(ii) or (iii)), no person shall begin actual construction of a new major stationary source or major modification if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS, except as in compliance with this Subpart.

b) This Subpart shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as

to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to section 107 of the CAA (42 USC 7407).

c) The applicability of 35 Ill. Adm. Code Part 204 is not affected by the applicability of this Subpart.

Section 203.2510 Criteria

For purposes of this Subpart, the emissions from a new major stationary source or major modification will be considered to cause or contribute to a violation of a NAAQS if such source or modification would exceed the following significance levels at any locality that does not or would not meet the applicable NAAQS.

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

Section 203.2520 Requirements

In the absence of fulfillment of the requirements of both subsections (a) and (b) by the owner or operator of the proposed major stationary source or major modification, the Agency shall deny the proposed construction.

a) The owner or operator shall reduce the impact of its emissions on air quality by obtaining sufficient emissions reductions to, at a minimum, compensate for its adverse ambient impact when the major stationary source or major modification would otherwise cause or contribute to a violation of a NAAQS; and

b) The owner or operator shall comply with the requirements of subsections (c) and (e) of Section 203.1410; Section 203.1420; Section 203.1430; subsection (a) of Section 203.1440; Section 203.1460; and Section 203.1500.

Section 203.2530 Construction Permit

a) The Agency shall only issue a construction permit for a new major stationary source or a major modification that is subject to the requirements of this Subpart if the Agency determines that the source meets all applicable requirements of this Subpart.

b) The Agency shall include in any construction permit issued pursuant to this Subpart, conditions specifying the manner in which the applicable requirements of this Subpart are satisfied.

c) In issuing a permit under this Subpart, the Agency shall follow the public participation procedures of Section 203.1610 or Section 204.1320 of 35 Ill. Adm. Code Part 204.

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

PART 204
PREVENTION OF SIGNIFICANT DETERIORATION

SUBPART A: GENERAL PROVISIONS

SUBPART B: DEFINITIONS

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

SUBPART D: INCREMENT

SUBPART E: STACK HEIGHTS

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

SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

SUBPART H: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section
204.1600 Applicability
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204.1910 Transition Requirements

AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28].

SOURCE: Adopted in R19-1 at 44 Ill. Reg. 14923, effective September 4, 2020; amended in R - at Ill. Reg. , effective .

SUBPART B: DEFINITIONS

Section 204.490 Major Modification

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

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

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

b) Any significant emissions increase (as defined in Section 204.670) from any emissions units or net emissions increase (as defined in Section 204.550) at a major stationary source that is significant for VOM or NO_x shall be considered significant for ozone.

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

1) Routine maintenance, repair and replacement;

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

A) An order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or

B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (42 USC 74~~3~~25);

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

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

A) The source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

B) The source is approved to use under any permit issued under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

7) Any change in ownership at a stationary source;

8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A) The Illinois SIP; and

B) Other requirements necessary to attain and maintain NAAQS during the project and after it is terminated; or

9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

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

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 204.800 Applicability

a) The requirements of this Part apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)).

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

c) No new major stationary source or major modification to which the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

d) The requirements of the program will be applied in accordance with the principles set out in this subsection (d).

1) Except as otherwise provided in subsection (f), and consistent with the definition of major modification contained in Section 204.490, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 204.670) and a significant net emissions increase (as defined in Sections 204.550 and 204.660). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type or types of emissions units involved in the project, according to subsections (d)(3) through (d)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 204.550. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3) Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 204.600) and the baseline actual emissions (as defined in Section 204.240(a) and (b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

4) Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 204.560) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in Section 204.240(c)) of these units before

the project equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

5) Hybrid Test for Projects That Involve Multiple Types of Emissions Unit or Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the ~~emissions increases for each~~ difference for all emissions units, using the method specified in subsections (d)(3) and (d)(4) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

6) The "sum of the difference" as used in subsections (d)(3) through (d)(5) shall include both increases and decreases in emissions calculated in accordance with those subsections.

e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section 204.1400 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 204.1400(f), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant, and the owner or operator elects to use the method specified in Section 204.600(b) for calculating projected actual emissions.

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

g) The provisions of 35 Ill. Adm. Code Part 203, Subpart R, apply with respect to any regulated NSR pollutant emitted from the construction of any new major stationary source as defined in 35 Ill. Adm. Code 203.1230(a)(8) or any major modification as defined in 35 Ill. Adm. Code 203.1220 in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(A)(ii) or (iii)) if the emissions from the major stationary source or major modification would cause or contribute to a violation of any NAAQS.

SUBPART D: INCREMENT

Section 204.930 Redesignation

a) As of September 4, 2020 of this Part, all areas of the State (except as otherwise provided by Section 204.920) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by Section 204.920) may be proposed by the State or Indian Governing Bodies under this Section, subject to approval by USEPA as a revision to the applicable SIP.

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

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

2) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

3) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

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

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

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

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

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

A) After consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the

redesignation must be specifically approved by State legislation); and

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

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

4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this ~~Section~~Part only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

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

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

2) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located and that border the Indian Reservation.

e) USEPA shall disapprove, within 90 days after submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements or is inconsistent with Section 204.920. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

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

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning given by 35 Ill. Adm. Code Part 203~~.301(a)~~.

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER f: TOXIC AIR CONTAMINANTS

PART 232
TOXIC AIR CONTAMINANTS

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: DETERMINATION OF A TOXIC AIR CONTAMINANT

Section

SUBPART C: PROCEDURES FOR EVALUATING CHARACTERISTICS OF A TOXIC AIR CONTAMINANT

Section

SUBPART D: SOURCE IDENTIFICATION AND REPORTING REQUIREMENTS

Section

SUBPART E: LISTING AND DELISTING

Section

AUTHORITY: Implementing Section 9.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9.5 and 27].

SOURCE: Adopted in R90-1 at 16 Ill. Reg. 16592, effective October 18, 1992; amended in R96-4 at 21 Ill. Reg. 6237, effective May 12, 1997, amended in R - at Ill. Reg. , effective .

SUBPART A: GENERAL PROVISIONS

Section 232.120 Definitions

The definitions of 35 Ill. Adm. Code 201 and 211 apply to this Part, as well as the definitions contained in this Section. Where a definition contained in this Section is more specific than those found in 35 Ill. Adm. Code 201 and 211, it must take precedence in application of this Part.

"ACGIH" means the American Conference of Governmental Industrial Hygienists.

"Adverse health effect" means a health injury or disease that may be produced by exposure to a contaminant. This includes any decrement in the function of an organ or organ system or any subclinical organ lesion that is likely to lead to a decrement in an organ or organ system function.

"Commercial fuel" means:

Any fuel offered for final sale for use in combustion processes;

Any gaseous or liquid fuel generated as a by-product at a source for which the source has been issued an operating permit to use such fuel internally in combustion processes, including internal combustion engines; or

Any waste derived fuel for which an operating permit has been issued and which represents no more than five percent (.05) by weight on a daily basis of total fuel used in combustion processes by a source.

"Critical gestation days" means the days during which the formation and differentiation of organs and organ systems occurs during embryonic development.

"Fugitive emissions" is defined according to 35 Ill. Adm. Code Part 203.~~124~~.

"IARC" means the World Health Organization's International Agency for Research on Cancer.

"IRIS" means the USEPA's Integrated Risk Information System.

"Illinois Toxic Air Contaminant" (ITAC) means any toxic air contaminant listed pursuant to 35 Ill. Adm. Code 232, excluding, specifically: coke oven gas; any hazardous air pollutant (HAP) now or hereafter listed under Section 112(b) of the Clean Air Act (CAA) (1990); and any pollutant or contaminant listed as a compound of concern under the Great Waters and Coastal Waters Program under Section 112(m) of the CAA.

"ITAC Source Report" means the report that the Agency provides to the source that lists data fields for the information required in the emissions report for Subpart D of this Part, and contains the information, if any, that previously has been reported to the Agency for those data fields.

"LC50" means the concentration in the air of a contaminant that kills, or is estimated to kill, 50% (.50) of a population of laboratory animals where the exposure is brief (8 hours or less) and where the route of exposure is inhalation.

"LD50" means the dose of a contaminant that kills, or is estimated to kill, 50% (.50) of a population of laboratory animals where the route of exposure is ingestion.

"Lowest observed adverse effect level" means the lowest experimentally determined dose at which a statistically or biologically significant indication of the toxic effect of concern is observed.

"Manufacture" means, for the purposes of Subpart D of this Part, to produce, prepare, or compound a listed ITAC, and includes coincidental production of an ITAC (e.g., as a by-product or impurity) as a result of the

manufacture, processing or otherwise use or treatment of one or more chemical substances not an ITAC. An ITAC intentionally incorporated into a product is considered to be manufactured.

"NTP" means the United States Department of Health and Human Services, Public Health Services' National Toxicological Program.

"No observed effect" means the condition where no adverse health effect has been detected.

"Otherwise use" means, for the purposes of Subpart D of this Part, any activity involving a listed ITAC at a source that does not fall within the definition of "manufacture" or "process."

"Process" means, for the purposes of Subpart D of this Part, the preparation of an ITAC after its manufacture for distribution in commerce in the same physical state as, or in a different form or physical state from, that in which it was received by the source, or preparation that produces a change in physical state or chemical form.

"Toxic air contaminant" (TAC) means a contaminant identified pursuant to Section 232.200 or Section 232.501 of this Part and listed in Appendix A of this Part.

(Source: ~~Amended at 21 Ill. Reg. 6237, effective May 12, 1997~~Amended at Ill. Reg. , effective .)

TECHNICAL SUPPORT DOCUMENT
PROPOSED RULE

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 MODIFICATIONS

PART 204
PREVENTION OF SIGNIFICANT DETERIORATION

PART 232
TOXIC AIR CONTAMINANTS

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August 2021

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EXECUTIVE SUMMARY

The Illinois Environmental Regulatory Group is proposing revisions to Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code) to implement the preconstruction permitting requirements of the Nonattainment New Source Review program in Illinois. This program is required by Sections 110(a)(2)(c), 110(a)(2)(D)(i), and 172(c)(5) of the federal Clean Air Act. IERG is proposing revisions to 35 Ill. Adm. Code Part 203 to make it consistent with the underlying federal requirements at 40 CFR § 51.165 and 40 CFR Part 51, Appendix S.[1]

Currently, the federally enforceable State Implementation Plan for the State of Illinois includes requirements of Part 203 that were approved by the United States Environmental Protection Agency in the 1992 to 2003 timeframe. Since 1992, the Illinois Environmental Protection Agency has implemented the State Implementation Plan approved Nonattainment New Source Review program in all nonattainment areas in the State. The proposed revisions to Part 203 are intended to incorporate various revisions made by the United States Environmental Protection Agency in the underlying federal requirements at 40 CFR § 51.165.

The proposed revisions remove some of the outdated requirements in Part 203. In addition, the proposed revisions address various regulatory revisions issued by the United States Environmental Protection Agency including incorporation of significant revisions made in 2002, changes promulgated under the ozone and $PM_{2.5}$ implementation rules, and other cleanup items. Because the proposed revisions to Part 203 are substantially identical to the currently applicable federal regulation, no substantive or quantifiable technical or economic impacts will result from the adoption of revisions to Part 203. The proposed revisions are also approvable as a revision to the Illinois State Implementation Plan in accordance with Section 110(l) of the Clean Air Act.[2]

[1] IERG is also proposing amendments to 35 Ill. Adm. Code Part 204 (Prevention of Significant Deterioration) and Part 232 (Toxic Air Contaminants). As explained in the Statement of Reasons, IERG's proposed revisions to Part 204 and Part 232 are to update cross-references to Part 203 and, for Part 204 only, to make it consistent with the underlying federal requirements at 40 CFR § 51.166.

[2] The proposed revisions to Part 203 include a transition provision for $PM_{2.5}$ precursors that is not intended to be submitted to USEPA for approval as part of the Illinois State Implementation Plan at this time as there are no $PM_{2.5}$ nonattainment areas in Illinois.

INTRODUCTION

This document describes the Nonattainment New Source Review ("NA NSR") program required by the federal Clean Air Act ("CAA") and related regulations adopted by the United States Environmental Protection Agency ("USEPA"), as would be addressed by proposed revisions to Part 203 of Title 35 of the Illinois Administrative Code (35 Ill. Adm. Code). This proposed rule revision, which the Illinois Environmental Regulatory Group ("IERG") is submitting to the Illinois Pollution Control Board ("Board") for its adoption, would update the State's NA NSR permitting program in Illinois to reflect the changes made by the USEPA to the underlying federal requirements at 40 CFR § 51.165 ("blueprint rule") and the Emission Offset Interpretative Ruling at 40 CFR Part 51 Appendix S ("Appendix S"). This permit program is required by Sections 110(a)(2)(c), 110(a)(2)(D)(i), and 172(c)(5) of the Clean Air Act, 42 U.S.C. §§7410 and 7502.

The technical feasibility and economic reasonableness of the proposed revisions to 35 Ill. Adm. Code Part 203 are discussed in Section VII of this document. The content of this proposed rule is discussed in the Statement of Reasons prepared by IERG for this rulemaking.

Words and phrases specifically defined in the rules are highlighted with italics when referenced in the summary for the first time. Acronyms and abbreviations are identified parenthetically when first used.

I. BACKGROUND AND GENERAL APPLICABILITY

What is the NA NSR Program?

The USEPA designates areas within a State as being in "nonattainment" when the air quality is not meeting the federal national ambient air quality standards ("NAAQS"). The NA NSR program is a New Source Review ("NSR") permitting program that the Illinois Environmental Protection Agency ("Illinois EPA") uses to authorize *construction* or modification of certain pollutant-emitting facilities located in *nonattainment areas*, where that construction will lead to specified increases in emissions of nonattainment pollutants. Specifically, the program prohibits the owner or operator of a subject facility from *beginning actual construction* without first obtaining a permit. This term generally means "initiation of physical on-site construction activities on an *emissions unit* which are of a permanent nature."

The preconstruction NA NSR permitting program is one of three separate NSR programs – preconstruction air permitting programs – required under the federal CAA. The first is the general NSR program, which in Illinois is implemented through the requirements of 35 Ill. Adm. Code Part 201. That program generally applies to pollutant-emitting facilities. The second is the Prevention of Significant Deterioration ("PSD") program, which only applies to emissions from certain pollutant-emitting stationary sources and certain modifications of those source(s) for which USEPA has designated the area's air quality as meeting the NAAQS or as 'unclassifiable.'[3] The third is the NA NSR program. This program applies primarily to

[3] Currently, the PSD program is implemented in Illinois through the requirements of 40 CFR § 52.21 under a delegation agreement with USEPA. On August 27, 2020, the Board adopted a state PSD program at 35 Ill. Adm. Code Part 204. The PSD program will be implemented in Illinois through Part 204 upon State Implementation Plan approval.

emissions of pollutants for which the area is designated nonattainment for one or more NAAQS, and then only to facilities which are *major stationary sources* with respect to those pollutants specifically. The program also applies to major stationary sources that are not located in a nonattainment area if the construction or modification of such facility would cause or contribute to a NAAQS violation.

Unlike the PSD program, Illinois EPA already implements the NA NSR permit program pursuant to regulations codified at 35 Ill. Adm. Code Part 203. These rules have been approved by USEPA as part of the federally enforceable State Implementation Plan ("SIP") for Illinois and are incorporated by reference into the SIP as identified at 40 CFR § 52.720. Part 203 was most recently amended in 1998.

The NA NSR program's purpose is to provide for regulation of the construction and modification of certain pollutant-emitting facilities located in or near nonattainment areas by the Illinois EPA. In addition, the NA NSR requirements apply only for a pollutant for which the area has been designated nonattainment, or for which the construction or modification would cause or contribute to a NAAQS violation, and/or the precursor(s) of that pollutant. The requirements of the PSD program do not apply to the pollutant for which the area is designated nonattainment. For major stationary sources in nonattainment areas, the NA NSR program authorizes the proposed changes as long as they comply with the control technology requirements, provide for reductions from existing sources such that it protects the air quality in the area, require that the facility undertake the proposed construction or modification in a manner that is consistent with existing regulations, and provide the public an opportunity to comment on the proposed construction or modification before issuance of a final permit. For major stationary sources that are not located in a nonattainment area, but the construction or modification of such facility would cause or contribute to a NAAQS violation, the NA NSR program provides for compensation of those impacts and the opportunity for the public to comment before issuance of a final permit.

What is the basis for changes to the NA NSR Program?

The federal requirements governing state NA NSR programs submitted to USEPA for approval as part of the SIP revision for a particular nonattainment area ("Part D SIP") are set forth in a blueprint rule codified at 40 CFR § 51.165.

A separate federal rule codified at 40 CFR Part 51, Appendix S – the Emission Offset Interpretative Ruling – sets forth a NA NSR program to be implemented in nonattainment areas that are not yet covered by an approved Part D SIP or where construction or modification of a major stationary source would cause or contribute to a NAAQS violation and such construction or modification would not be covered by an approved Part D SIP. Appendix S can be implemented by a State permitting authority to issue NA NSR permits in the absence of an approved Part D SIP.

The USEPA has made numerous revisions to the blueprint rule and Appendix S since Part 203 was most recently amended in 1998. IERG's proposed revisions to Part 203 are intended to incorporate the revisions made by the USEPA in the underlying blueprint rule at 40 CFR § 51.165 as noted below.

- Revisions to incorporate the significant revisions made in 2002 to the federal NA NSR regulations.[4]
- Revisions for implementation of ozone NAAQS nonattainment requirements.[5]
- Revisions for implementation of $PM_{2.5}$ NAAQS nonattainment requirements.[6]
- Other clarifications that delete obsolete provisions and revise regulatory text to accommodate the above changes.[7]
- Revisions to address major stationary sources that are not located in a nonattainment area if the construction or modification of such facility would cause or contribute to a NAAQS violation.

In addition to the above, IERG proposes to organize the new subparts of Part 203 consistent with the formatting and structure of the recently adopted PSD program in 35 Ill. Adm. Code Part 204.

What is the organization of the NA NSR rule as it is proposed to be revised?

The proposed revisions to 35 Ill. Adm. Code Part 203 would create ten new subparts – Subparts I through R. One provision – proposed new Section 203.100 – would be added to Subpart A for purposes of transitioning the applicability from the old Subparts (A through C and F through H) to the new Subparts (I through R). Section 203.100 would establish that the effective date for Subparts I through R is the effective date of approval of those subparts by the USEPA as a revision to the Illinois SIP. Section 203.100 also would provide for the sunsetting of the six existing subparts on the same date. This approach ensures the Illinois EPA and owners of regulated sources will be subject to the provisions of only one rule, both under federal law and under state law, at any point in time.

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[4] *See* 67 Fed. Reg. 80186 (December 31, 2002) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Baseline Emissions Determination, Actual-to-Future-Actual Methodology, Plantwide Applicability Limitations, Clean Units, Pollution Control Projects." *See also* 72 Fed. Reg. 32526 (June 13, 2007) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Removal of Vacated Elements." *See also* 72 Fed. Reg. 72607 (December 21, 2007) "Prevention of Significant Deterioration and Nonattainment New Source Review: Reasonable Possibility in Recordkeeping." *See also* 74 Fed. Reg. 2376 (January 15, 2009) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting." *See also* 85 Fed. Reg. 74890 (November 24, 2020) "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting."

[5] *See* 70 Fed. Reg. 71612 (November 29, 2005) "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline."

[6] *See* 73 Fed. Reg. 28321 (May 16, 2008) "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)." *See also* 75 Fed. Reg. 64902 (October 20, 2010) "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)." *See also* 77 Fed. Reg. 65107 (October 25, 2012) "Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$): Amendment to the Definition of 'Regulated NSR Pollutant' Concerning Condensable Particulate Matter." *See also* 81 Fed. Reg. 58010 (August 24, 2016) "Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements."

[7] *See* 86 Fed. Reg. 37918 (July 19, 2021) "New Source Review Regulations; Correction."

What pollutants are regulated under the NA NSR program?

In 35 Ill. Adm. Code Part 203 as it is proposed to be revised, the covered pollutants reflect the requirements of the federal blueprint rule at 40 CFR § 51.165.

The specific air pollutants regulated by the NA NSR program are called *regulated NSR pollutants*. Regulated NSR pollutants include any pollutant for which the USEPA has established a primary or secondary NAAQS and all designated precursors (chemicals known to form a different pollutant through chemical reactions in the atmosphere) for that pollutant. The NAAQS pollutants and designated precursors currently include:

- Sulfur dioxide (SO_2)
- Oxides of nitrogen (NOx) as nitrogen dioxide (NO_2)
- Volatile organic material (VOM) and NOx as precursors for ozone
- Particulate matter with aerodynamic diameter less than 10 micrometers (PM_{10})
- Particulate matter with aerodynamic diameter less than 2.5 micrometers ($PM_{2.5}$) and its precursors: SO_2, NOx, VOM, and ammonia (NH_3)
- Carbon monoxide (CO)
- Lead (Pb)

The individual pollutants or their precursors are not summed to determine applicability of NA NSR permitting. *i.e.* criteria pollutants and their precursors are treated individually.

Section 182(f) of the CAA allows the USEPA to waive the NA NSR requirements for NOx for sources located in ozone nonattainment areas upon determination that the net air quality benefit is greater in the absence of NOx reductions from the sources in the area ("NOx waiver"). The State is required to submit information to the USEPA to facilitate issuance of this NOx waiver for every new ozone NAAQS promulgation.

Unlike the PSD program, the non-criteria pollutants (*i.e.* pollutants for which there is no NAAQS) are not regulated under the NA NSR program.

What are the transition provisions for $PM_{2.5}$ precursors under the NA NSR program?

Because Part 203 as currently codified does not address $PM_{2.5}$ as a regulated NSR pollutant, Illinois EPA has implemented Appendix S with respect to direct $PM_{2.5}$ emissions and $PM_{2.5}$ precursors.[8] Under this program, SO_2 and NO_X emissions are always regulated as $PM_{2.5}$ precursors, both in $PM_{2.5}$ nonattainment areas and where construction or modification of a major stationary source outside a nonattainment area would cause or contribute to a NAAQS violation. Emissions of VOM and ammonia are regulated as $PM_{2.5}$ precursors only in $PM_{2.5}$ nonattainment areas and only following a two-year transition period for each such area as explained below.[9]

There are currently no $PM_{2.5}$ nonattainment areas in Illinois. Consistent with the federal NA NSR rules in Appendix S and 40 CFR § 51.165, the proposed revisions to Part 203 will provide

[8] See, "Review of Illinois Environmental Protection Agency's New Source Review and Title V Permit Programs 2017 Evaluation Final Report" USEPA Region 5, September 2017.
[9] 40 CFR part 51, Appendix S, paragraph II.A.31.

for an orderly transition period for regulation of VOM and ammonia as precursors in a particular $PM_{2.5}$ nonattainment area following its redesignation. These provisions are not intended to be submitted to USEPA for approval as part of the generally applicable SIP at this time. Instead, these provisions are intended for submission only in conjunction with the Part D SIP submittal for such area.[10] Specifically:

- For the first 24 months following redesignation, VOM and ammonia are not regulated as $PM_{2.5}$ precursors.
- If the Agency submits to USEPA, within 24 months following redesignation, a complete demonstration of insignificant contribution for a particular precursor consistent with 40 CFR 51.1006(a)(3), as well as the Part 203 rule provisions governing the precursor transition period, that precursor or precursors (i.e., VOM and/or ammonia) will continue not to be regulated as $PM_{2.5}$ precursors until and unless USEPA disapproves this submittal.
- If the Agency fails to submit the regulatory transition provisions or a complete precursor demonstration within 24 months following redesignation then the affected precursor or precursors will be regulated as a $PM_{2.5}$ precursor on such date.
- If the Agency timely submits the regulatory transition provisions and a complete precursor demonstration and they are subsequently disapproved by USEPA, then the affected precursor or precursors are regulated as $PM_{2.5}$ precursors on the effective date of such disapproval.

During the transition period, prior to the date on which USEPA approves or disapproves the Part D SIP for a particular $PM_{2.5}$ nonattainment area, the same provisions described above will apply and will be federally enforceable under 40 CFR § 52.24(k) and Appendix S.[11] No SIP submission is required in order to effect the transition provisions prior to, or for the first 24 months following, redesignation of a particular area to nonattainment with respect to the $PM_{2.5}$ NAAQS.

In accordance with the federal blueprint rule at 40 CFR § 51.165(a)(13), the USEPA may approve a State NA NSR rule that exempts a particular $PM_{2.5}$ precursor from control in a particular $PM_{2.5}$ nonattainment area consistent with the regulatory transition and precursor demonstration provisions described above. Accordingly, there are three possible ultimate outcomes:

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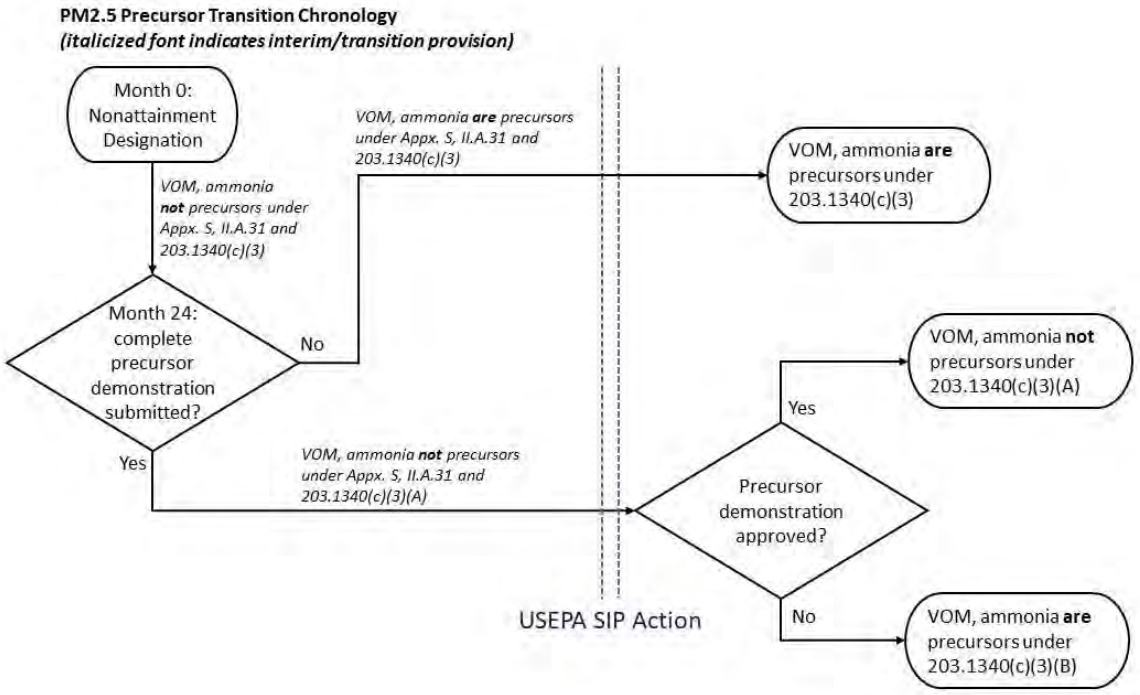
[10] The Part D SIP is the revision to the SIP that is required under § 171(b)-(c) of Part D of Title I of the CAA. In addition to the NA NSR rules, the Part D SIP submission must include, among other things, enforceable measures and a demonstration that such measures will provide for attainment of the particular NAAQS by a specified deadline that varies with the nonattainment classification. USEPA's rules governing Part D SIPs for $PM_{2.5}$ nonattainment areas are codified at 40 CFR § 51.1000 *et seq.* Submission of the Part D SIP for a $PM_{2.5}$ nonattainment area to USEPA is required no later than 18 months after the effective date of the nonattainment designation for the area.

[11] *See,* 40 CFR § 52.24(k) ("For an area designated as nonattainment after July 1, 1979, the Emission Offset Interpretative Ruling, 40 CFR part 51, appendix S shall govern permits to construct and operate applied for during the period between the date of designation as nonattainment and the date the NSR permit program meeting the requirements of part D is approved.") *See also,* paragraph I of Appendix S, indicating that the provisions of Appendix S apply in an area designated as nonattainment area under 40 CFR part 81, subpart C, until superseded by the NA NSR provisions of the approved Part D SIP.

- If the Agency has not submitted a complete demonstration of insignificant contribution for a particular precursor as an element of the Part D SIP, then the exemption provision in the blueprint rule is inapplicable; VOM and ammonia will become precursors under Part 203, as it is proposed to be revised, beginning 24 months after the effective date of the redesignation.
- If the Agency submits and USEPA approves the demonstration, then the exemption provision in the blueprint rule applies; VOM and ammonia will not be regulated as precursors under Part 203 as it is proposed to be revised.
- If USEPA disapproves the demonstration, then the exemption provision in the blueprint rule is inapplicable; VOM and ammonia will be regulated as precursors under Part 203 as it is proposed to be revised.

These provisions are illustrated in the following figure.



Which stationary sources of emissions are subject to the NA NSR program?

In 35 Ill. Adm. Code Part 203 as it is proposed to be revised, the covered stationary sources reflect the requirements of the federal blueprint rule at 40 CFR §§ 51.165(a)(1)(ii) and (iv).

The NA NSR program applies to certain pollutant-emitting facilities called *major stationary sources,* which emit or could have potential to emit an air pollutant for which the area is nonattainment, in quantities at or above the applicable threshold. Determination of the amount a pollutant-emitting facility could emit is a concept called *potential to emit* or "PTE." This term and concept are discussed in detail in Section II herein. Specifically, NA NSR permitting is required when a major stationary source is initially constructed or when it might *significantly*

increase regulated NSR pollutant emissions as a result of a proposed *project*. Examples of *major stationary sources* include petroleum refineries and power plants.

Under the NA NSR program, a *stationary source* consists of all of the stationary pollutant-emitting activities that are under common control, are located on contiguous or adjacent properties, and belong to the same industrial grouping. (The NA NSR program does not directly apply to tailpipe emissions from mobile sources such as cars, trucks or locomotives or to non-road engines.) Pollutant-emitting activities are considered to be part of the same industrial grouping if they belong to the same "major group" in the federal Standard Industrial Classification Manual, i.e., have the same first two-digit code in this manual, which classifies establishments based on their primary economic activity. USEPA recognizes that in some circumstances the determination of whether two properties are adjacent for purposes of the NA NSR program may involve a case-by-case determination.

Unlike the PSD program, the major stationary source threshold, in terms of emissions of the nonattainment regulated NSR pollutant, is independent of the source category to which the source belongs. Generally, a threshold of 100 tons per year ("tpy") applies under the NA NSR program. The rule does include more stringent major stationary source thresholds for sources located in some nonattainment areas with higher classifications per Subpart 2, Subpart 3, or Subpart 4 of Part D, Title I of the CAA. The following table lists the major stationary source thresholds for nonattainment areas with higher classifications.

Area Nonattainment Classification	Major Stationary Source Threshold (tpy)		
	Ozone	CO	$PM_{10}/PM_{2.5}$
Marginal/Moderate	100	-	-
Serious	50	50*	70
Severe	25	-	-
Extreme	10	-	-
* Only if stationary sources significantly contribute to ambient CO levels as determined by USEPA.			

How is Potential to Emit (PTE) determined?

In 35 Ill. Adm. Code Part 203 as it is proposed to be revised, PTE is given the meaning required under the federal blueprint rule at 40 CFR § 51.165(a)(1)(iii). Additionally, a clause was added to clarify that a limitation or the effect it would have on emissions must be federally enforceable *or* enforceable by a state or local air pollution control agency.

The PTE of a *stationary source*, or an *emissions unit*, is generally defined as its capacity to emit a pollutant under its physical and operational design. Physical and operational limitations on the source's or unit's capacity to emit a pollutant, such as the use of air pollution control equipment, restrictions on hours of operation or on the type or amount of material combusted or processed, are treated as part of its design if the limitation or the effect it would have on emissions is or will be federally enforceable or legally and practicably enforceable by a state or local air pollution control agency. In addition to being legally enforceable, in order to be considered enforceable for purposes of limiting PTE, a permit condition or other limitation or requirement must be

enforceable as a practical matter. This means that the limitation must be amenable to assessment of compliance on an ongoing basis, and be accompanied by requirements for testing, monitoring, inspections, and recordkeeping, as appropriate. As such, exceedances of limitations that restrict a source's potential emissions of a pollutant should be readily subject to enforcement.

Do fugitive emissions count when determining whether a source is major?

In 35 Ill. Adm. Code Part 203 as it is proposed to be revised, the provisions governing consideration of fugitive emissions reflect the requirements of the federal blueprint rule at 40 CFR § 51.165(a)(1)(iv).

Similar to the PSD rule, under the NA NSR rule, *fugitive emissions* are defined as emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.[12] Whether fugitive emissions are considered when determining if a source is major depends on the type or category of stationary source. Fugitive emissions are considered for the following categories of sources. For other categories of sources, fugitive emissions are not considered.

- Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour (MMBtu/hour) heat input
- Coal cleaning plants (with thermal dryers)
- Kraft pulp mills
- Portland cement plants
- Primary zinc smelters
- Iron and steel mill plants
- Primary aluminum ore reduction plants (with thermal dryers)
- Primary copper smelters
- Municipal incinerators capable of charging more than 250 tons of refuse per day
- Hydrofluoric acid plants
- Sulfuric acid plants
- Nitric acid plants
- Petroleum refineries
- Lime plants
- Phosphate rock processing plants
- Coke oven batteries
- Sulfur recovery plants
- Carbon black plants (furnace process)
- Primary lead smelters
- Fuel conversion plants
- Sintering plants
- Secondary metal production plants

[12] Common examples of fugitive emissions are dust (i.e., particulate matter) from vehicle traffic on roadways and VOM from leaking flanges or connectors at gasoline and petroleum product terminals.

- Chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140)
- Fossil-fuel boilers (or combinations thereof) totaling more than 250 MMBtu/hour heat input
- Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
- Taconite ore processing plants
- Glass fiber processing plants
- Charcoal production plants
- Categories of sources that were being regulated under New Source Performance Standards ("NSPS") as of August 7, 1980, including asphalt concrete plants, ferroalloy production facilities, glass manufacturing plants, stationary gas turbines, and automobile and light-duty truck surface coating operations.
- Categories of sources that were being regulated under a National Emission Standard for Hazardous Air Pollutants ("NESHAP"), 40 CFR Part 61, as of August 7, 1980.

What is a Plantwide Applicability Limitation (PAL)?

The proposed revisions to Part 203 include Plantwide Applicability Limitation ("PAL") provisions as required by the federal blueprint rule at 40 CFR § 51.165(f). The proposed revisions to Part 203 will add these provisions in a new Subpart Q.

The NA NSR program includes provisions for the issuance of permits to existing major stationary sources with PALs. A PAL restricts all emissions of a particular regulated NSR pollutant from a subject source. For a source with a PAL for a pollutant, applicability of NA NSR for that pollutant is not determined from the increases in emissions of that pollutant due to a proposed project. Instead, if the source's actual emissions of the pollutant after a proposed project will remain below the applicable PAL, the project is not a major modification irrespective of any increases in actual emissions of the pollutant due to the project.

Each PAL must be established in a PAL permit issued by the permitting authority for a 10-year term. In order to obtain a PAL, the source must submit an appropriate permit application specifically requesting a PAL (or PALs for multiple pollutants). Among other information, the application must include a listing of emissions units at the source that have the potential to emit that pollutant; their baseline actual emissions (with supporting documentation); the classification of each emissions unit as small, significant or major;[13] and identification of all applicable emissions limits.

[13] An emissions unit is small with respect to a particular regulated NSR pollutant if its PTE is less than the significant level; significant if its PTE is equal to or greater than the significant level but less than the applicable major stationary source threshold; and major if its PTE is equal to or greater than the applicable major stationary source threshold. The proposed revisions to Part 203 omit one minor provision of the federal blueprint rule regarding this classification: The blueprint rule at 40 CFR § 51.165(f)(2)(iii) defines a small emissions unit as one having PTE "less than the significant level for that PAL pollutant, as defined in paragraph (b)(23) of this section or in the Act, whichever is lower." The reference to the CAA is immaterial, as no significant levels are defined or

A PAL for a particular pollutant must generally be set starting from the baseline actual emissions for all emissions units at the source that can emit the pollutant. For existing emissions units, the source must select one baseline period, consistent with the provisions of the NA NSR rule, e.g., the same 24-month baseline period must be used for all existing emissions units.[14,15] For any new emissions unit (i.e., any unit that has operated for less than two years or that is not yet operational but for which construction has commenced), the baseline actual emissions are the PTE of the unit. For an existing emissions unit that is existing rather than new, but for which actual construction began after the selected 24-month baseline period, the PTE is used rather than the baseline actual emissions. To set the value of the PAL, the significant level for the pollutant is added to the sum of the emissions determined in the manner described above.

A PAL may be increased if the source applies for and obtains a NA NSR permit for a PAL major modification, making the required demonstration for an increase in the PAL. Among other information, the application must identify the emissions units that will contribute to the increase in emissions that will cause the source's emissions to equal or exceed the PAL. Applicable substantive requirements of NA NSR must be met for these emissions units. For example, for new or modified emissions units, the issued NA NSR permit must include lowest achievable emission rate ("LAER") requirements even though such units will also become or remain subject to the PAL. The required demonstration for an increase in the PAL begins with a new PAL-setting calculation, generally performed in the same manner as described previously for an initial PAL.[16] If the required demonstration is made, the permitting authority will issue a revised PAL permit reflecting the increased PAL. The increased PAL will 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.

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otherwise established in the CAA. To improve clarity, this reference is omitted from the proposed revisions to Part 203.

[14] When PALs are set for two or more regulated NSR pollutants, a different baseline period may be used for each pollutant.

[15] For any emissions unit which has been permanently shut down since the selected baseline period, its contribution to the PAL is zero.

[16] There are three exceptions to this general provision dealing with increases in PALs. First, for each emissions unit that will be subject to NA NSR permitting as part of the PAL major modification (i.e., each emissions unit contributing to the increase), the level of the increased PAL is determined using its allowable emissions in lieu of its baseline actual emissions. Second, for each significant or major emissions unit that was not subject to NA NSR permitting as part of the PAL major modification and which is not required to comply with a Best Achievable Control Technology ("BACT") or LAER requirement that was established within the preceding ten years, the level of the increased PAL is computed using its baseline actual emissions with an appropriate downward adjustment assuming application of BACT-equivalent controls. The level of control that would result from BACT-equivalent controls on each significant or major emissions unit will be determined by the permitting authority based on a new BACT analysis at the time the application is submitted. Lastly, the increased PAL is calculated without adding an amount equal to the significant level for the pollutant. If the increased PAL as computed using this procedure would exceed the existing PAL, then the required demonstration has been made and the permitting authority will issue a revised PAL permit reflecting the increased PAL.

At the end of the 10-year term, a PAL permit must be renewed or it expires.[17] When a PAL permit is renewed, the level of the new PAL generally is set in the same manner used to set the original PAL with several exceptions. Most significantly, the permitting authority has discretion to set the value of the new 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 voluntary emissions reductions at the source, or other relevant factors. If the new level of the PAL would be equal to or greater than 80 percent of the current PAL, the permitting authority may renew the PAL at the same level without any additional considerations.[18]

What activities are subject to NA NSR permitting?

In general, three types of activities are subject to NA NSR permitting:

- A company or other entity that proposes to construct a new major stationary source for the pollutant for which the area is nonattainment must obtain a NA NSR permit.
- The owner or operator of an existing stationary source that is not major for the nonattainment regulated NSR pollutant must obtain a NA NSR permit for a proposed physical change to the source if the change would constitute a major stationary source by itself for the nonattainment regulated NSR pollutant.
- The owner or operator of an existing major stationary source must obtain a NA NSR permit for a proposed major modification for the pollutant for which the area is nonattainment. As discussed at length later in this document, a major modification is a proposed project, i.e., proposed physical change(s) or change(s) in the method of operation, at an existing major stationary source, that would result in a significant net increase in emissions of the nonattainment regulated NSR pollutant. There are special major modification applicability requirements for sources located in areas that are designated nonattainment for ozone and classified as serious, severe, or extreme.

Additionally, new major stationary sources or major modifications located in attainment or unclassifiable areas which would cause or contribute to a violation of any NAAQS are subject to NA NSR permitting. As discussed more in Section VI, IERG proposes to include this concept in revised Part 203.

[17] If a PAL permit expires, the permitting authority must establish new emissions caps or other emissions limits for all emissions units at the source that have the potential to emit the pollutant subject to the PAL. These new emissions limits will represent a distribution of the PAL that will sum to the value of the PAL. Until these new limits are set, the source must comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL.

[18] There are two more exceptions resulting in adjustment of the new PAL: (1) if the source's PTE has declined below the current PAL level, the new PAL must be adjusted downward so that it does not exceed the source's PTE; and (2) if the new value for the PAL would exceed the current PAL, the new PAL must be set at the value of the current PAL, unless the PAL major modification procedures are satisfied.

II. NEW MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

For a proposed new major stationary source, how is applicability of the NA NSR program determined?

For a proposed new major stationary source, NA NSR permitting is required for the regulated NSR pollutant(s) for which the area is nonattainment and for which the PTE is above the major stationary source threshold (i.e., 100 tons per year or a lower threshold for areas with higher classifications). However, the pollutant and its precursors are treated individually for determining applicability of NA NSR permitting. For example, a hypothetical greenfield stationary source to be located in a $PM_{2.5}$ moderate nonattainment area will have PTEs of $PM_{2.5}$ and its precursors as shown below.

Pollutant	PTE (tpy)
Direct $PM_{2.5}$ emissions (filterable and condensable)	45
SO_2 (precursor for $PM_{2.5}$)	52
NO_X (precursor for $PM_{2.5}$)	122

In this example, the source is subject to NA NSR permitting for NO_X emissions (as a $PM_{2.5}$ precursor) because its PTE is greater than 100 tons per year. Because its PTE of direct $PM_{2.5}$ emissions and SO_2 are each less than 100 tpy, these regulated NSR pollutants are not subject to NA NSR permitting.[19] Thus, the applicant would be required to apply lowest achievable emission rate, obtain emissions offsets, and comply with other NA NSR permit requirements only for NO_X emissions from the source.

What changes are proposed for the definition of major stationary source?

The proposed revisions pertain to the following changes to the major stationary source definition currently codified under 35 Ill. Adm. Code 203.206.

(a) The currently codified definition omits the term "installation" from the definition of the term "major stationary source." Consistent with the blueprint rule at 40 CFR § 51.165(a)(1)(i) and (iv), the definition as it is proposed to be revised uses the term "stationary source," which in turn is defined to include a "building, structure, facility, or installation" which emits a regulated NSR pollutant.

(b) The currently codified definition omits emission thresholds for $PM_{2.5}$ and its precursors for sources located in $PM_{2.5}$ nonattainment areas classified as serious. Consistent with the blueprint rule at 40 CFR § 51.165(a)(1)(iv)(A)(1)(vii)-(viii), the revised definition adds these thresholds.

[19] It is important to note that SO_2 emissions from the source may be subject to PSD review depending upon whether it belongs to a named source category specified in the major stationary source definition in the rule.

(c) The revised definition requires inclusion of fugitive emissions consistent with the blueprint rule at 40 CFR § 51.165(a)(1)(iv)(C).

When a NA NSR permit is required, when may construction begin?

If a NA NSR permit is required, the owner or operator is not allowed to begin actual construction of the new major stationary source (or major modification) until a final NA NSR permit is issued.

At existing minor sources, what triggers a requirement for NA NSR permitting?

Construction of a new major stationary source can occur at an existing, non-major stationary source. This would occur when proposed physical changes at the existing source would, by themselves, constitute a major stationary source. When a minor source undertakes changes that make it a major source, future projects at the source will be evaluated against the NA NSR significant emission rates.

III. MAJOR MODIFICATIONS

What proposed changes at existing major stationary sources are subject to NA NSR permitting?

By definition, a major modification is generally a proposed "physical change" or a "change in the method of operation" of an existing major stationary source (i.e., a "project") that would result in both a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source. For sources located in ozone nonattainment areas classified as serious, severe, or extreme, VOM and NO_X emissions are subject to special applicability requirements per Title I, Part D, Subpart 2 of the CAA. Also, as discussed previously, different major modification applicability criteria apply to a source with a PAL for a pollutant.

The NA NSR rule specifies certain changes at stationary sources that are not considered physical changes or changes in the method of operation. These activities are not subject to NA NSR review.[20] In particular, routine maintenance, repair and replacement activities are not considered physical changes or changes in the method of operation under the NA NSR rule. Permissible increases in the utilization or hours of operation of an emissions unit are not considered changes in the method of operation under the NA NSR rule.[21]

[20] Under Illinois' regulations, a state construction permit also may not be needed for these excluded activities.

[21] The activities that are not considered changes in the method of operation also include the following:

- Any change in ownership at a stationary source.
- Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
- Use of an alternative fuel or raw material by a stationary source which:
    - The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any NSR permit condition which was established after December 21, 1976; or
    - The source is approved to use under its air permit.

Finally, if the fugitive emissions of the source are not required to be considered in determining applicability and the project would not be a major modification for a pollutant considering only non-fugitive emissions, then NA NSR review is not applicable for that pollutant.

What changes are proposed for the definition of major modification?

The proposed rule revisions pertain to the following changes to the major modification definition currently codified under Section 203.207. These revisions are mostly needed for implementation of the 2002 amendments to the federal NSR rules.

(a) Added a new term "project" to address applicability for physical changes or changes in the method of operation of stationary sources.
(b) The current rule applies to projects that result in significant net emissions increases of a pollutant for which the area is nonattainment. The revised definition splits the applicability analysis into two tests, *i.e.* the project will result in both a significant emissions increase and a significant net emissions increase, except that this two-step analysis does not apply with respect to VOM and NO_X emissions for sources located in ozone nonattainment areas classified as serious, severe, or extreme.
(c) Other changes to implement the 2002 amendments to the federal NSR rule provisions for purposes of implementing applicability for projects at major stationary sources.

What activities constitute a single project?

When determining the applicability of NA NSR, a source owner is not allowed to split a project into multiple, nominally separate changes, each with its own analysis of emissions increase, possibly circumventing NA NSR permitting for the project as a whole.[22] Consistent with the blueprint rule at 40 CFR § 51.165(a)(1)(xxxix), a new definition of the term "project" is being added as part the proposed revisions to Part 203 as any physical change or change in the method of operation of an existing major stationary source. A project can result in both increases and/or decreases at the existing emissions units at a stationary source.

What amounts of emissions are considered significant?

An emissions increase or a net emissions increase for a regulated NSR pollutant is considered significant for purposes of major modification applicability under the NA NSR program if it is equal to or more than the value specified in the NA NSR rule for that regulated NSR pollutant. The significant emissions rates for different pollutants in 35 Ill. Adm. Code Part 203 as it is proposed to be revised are listed below.

Regulated NSR Pollutant	**Significant Emission Rate**
Ammonia	70 tpy in $PM_{2.5}$ nonattainment areas
CO	100 tpy in CO nonattainment areas, except that the rate is 50 tpy in areas classified as serious nonattainment for CO where

[22] Permitting authorities routinely evaluate nominally separate physical changes and changes in method of operation at a major stationary source to determine whether they should be "aggregated" and appropriately considered part of a single larger project.

	stationary sources significantly contribute to ambient CO levels, as determined under rules issued by USEPA pursuant to the CAA
NOx	40 tpy in NO_2 nonattainment areas, $PM_{2.5}$ nonattainment areas, and ozone nonattainment areas, except that the rate is 25 tpy in areas classified as serious or severe nonattainment for ozone and any increase is considered significant in areas classified as extreme nonattainment for ozone
PM_{10}	15 tpy in PM_{10} nonattainment areas
$PM_{2.5}$	10 tpy (direct $PM_{2.5}$) in $PM_{2.5}$ nonattainment areas
Pb	0.6 tpy in lead in nonattainment areas
SO_2	40 tpy in SO_2 nonattainment areas and $PM_{2.5}$ nonattainment areas
VOM	40 tpy in $PM_{2.5}$ nonattainment areas and ozone nonattainment areas, except that the rate is 25 tpy in areas classified as serious or severe nonattainment for ozone and any increase is considered significant in areas classified as extreme nonattainment for ozone

With the exception of ammonia, all of the above significant emission rates reflect the requirements of the federal blueprint rule at 40 CFR § 51.165(a)(1)(x).

What is the basis for the 70 tpy significant emission rate for ammonia?

As discussed above, the Agency currently implements Appendix S with respect to $PM_{2.5}$. Under this program, once ammonia becomes a regulated $PM_{2.5}$ precursor in a particular nonattainment area, it is the responsibility of the State to establish the significant emission rate; approval by USEPA is not required.[23] Similarly, under the federal blueprint rule at 40 CFR § 51.165(a)(1)(x), establishment of a significant level for ammonia in each $PM_{2.5}$ nonattainment area is left to the discretion of the State, subject to USEPA approval. The 70 tpy threshold is proposed to apply in all $PM_{2.5}$ nonattainment areas statewide. This is consistent with the approach used in Ohio, where USEPA approved a statewide NA NSR rule entirely omitting ammonia from the list of regulated $PM_{2.5}$ precursors based on a modeling analysis showing that ammonia increases do not contribute significantly to $PM_{2.5}$ formation in the Cleveland area.[24] The 70 tpy threshold also has been previously approved by USEPA as the significant level for ammonia in Part D SIPs for specific $PM_{2.5}$ nonattainment areas.[25]

[23] 40 CFR part 51, Appendix S, paragraph II.A.10, subparagraph (vi).
[24] *See* 83 Fed. Reg. 33844 (July 18, 2018) "Air Plan Approval; Ohio; Ohio NSR PM2.5 Precursors."
[25] *See* 84 Fed. Reg. 35831 (July 25, 2019) "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to Nonattainment Permitting Regulations."

Based on the most recent available emissions inventory, there are only four facilities in Illinois with reported actual ammonia emissions above the major stationary threshold of 100 tpy.[26] At each of these facilities, the ammonia emissions result largely or entirely from use of selective catalytic reduction or selective non-catalytic reduction for control of NO_X emissions. Increased ammonia emissions from major stationary sources of ammonia are not anticipated to interfere with attainment and maintenance of the $PM_{2.5}$ NAAQS in Illinois.

How does one determine whether a project will have a significant emissions increase?

As previously discussed, a proposed project generally is a major modification if it would result in both a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant. The revised NA NSR rule includes provisions prescribing how the emissions increase of a regulated NSR pollutant from a project is to be determined, as well as provisions for the determination of the net emissions increase. To determine whether the change in emissions for a project is significant for the regulated NSR pollutant, one must determine the changes in emissions of the various units or groups of units affected by the project.

What are the procedures for calculating emissions increases under the revised NA NSR rules?

The owner or operator must begin by identifying all emissions units whose emissions of the regulated NSR pollutant could be affected by the project and classifying each such unit as either new or existing. Thereafter, the rule specifies separate calculation methodologies for new and existing emissions units under the proposed revisions.

What type of units are specifically identified under the revised NA NSR rules?

Per the revised definition of emissions unit, an emissions unit is a new emissions unit if it is (or will be) newly constructed and it has existed for less than two years from the date it first operated. An emissions unit is an existing emissions unit if it is not a new emissions unit. In addition, the revised rule includes a definition for "electric utility steam generating unit" ("EUSGU") that is subject to special provisions for purposes of applicability. The revised rule also includes a definition of "replacement unit" that is considered an existing emissions unit for the purposes of NA NSR applicability if it meets the criteria under the definition.

How does one determine the increase in emissions for a new unit under the revised NA NSR rule?

The emissions increase from a project is determined by summing changes in emissions from each affected unit or group of units. For a new emissions unit, the prescribed procedure is the actual-to-potential applicability test. The emissions change from each emissions unit is calculated as the difference between its PTE following completion of the project and its baseline actual emissions. In the case of the initial permitting of a proposed new unit, the baseline actual emissions are zero, and this procedure results in the increase from the new unit initially being its PTE. In the case of a new unit that is affected by a project during its first two years of operation,

[26] 2017 National Emissions Inventory (NEI) Database available at www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data.

the baseline actual emissions are equal to the unit's PTE. This is relevant if another, separate project occurs that involves or affects the new unit. Until such a unit has existed for a period of two years since it first operated, to have representative data for baseline actual emissions, changes are evaluated from the established PTE for a unit. A subsequent project will only have an increase from the new unit if it would act to increase the unit's PTE.

How does one determine the increase for existing emissions units?

For existing units, the revised rule prescribes the calculation procedure as the actual-to-projected-actual applicability test. Under this procedure, the change in emissions of an emissions unit is calculated as the difference between its projected actual emissions and its baseline actual emissions. The total emissions increase from the project is calculated as the sum of the differences for each of the existing emissions units. The baseline actual emissions for an existing emissions unit generally are its actual, annual average emissions, including quantifiable fugitive emissions and emissions associated with startups, shutdowns, and malfunctions and with certain required downward adjustments, during a recent 24-month period, as selected by the source owner. The baseline actual emissions for an existing emissions unit that is not an EUSGU are the average rate, in tpy, at which the unit actually emitted the pollutant during a consecutive 24-month period selected from the ten-year period immediately preceding the earlier of either (a) the date on which the source owner files a complete application for a construction permit for the project or (b) the date on which the source owner begins actual construction of the project (i.e., if no construction permit is required). A source owner may not select or use a baseline period where information is not adequate to determine annual emissions and to make any required downward adjustments to the emissions. These baseline actual emissions must be adjusted downward to exclude noncompliant emissions that occurred while the emissions unit was operating above any emission limit that was legally enforceable during the baseline period. In addition, the baseline actual emissions rate from a unit must be adjusted downward to exclude any emissions that would have exceeded a limit with which the unit must currently comply.[27]

The provisions for baseline actual emissions for EUSGUs are different than those for other emissions units. For an existing EUSGU, baseline actual emissions are the average rate, in tpy, at which the unit actually emitted the pollutant during any consecutive 24-month period within the five-year period immediately preceding the date on which actual construction begins on a proposed project. Use of a different period is allowed if the permitting authority determines that a different period is more representative of normal source operation. The baseline actual emissions must be adjusted downward to exclude noncompliant emissions that occurred while the unit was operating above any emission limit that was legally enforceable during the baseline period.

[27] For example, consider an emissions unit that during the selected baseline period was subject to a VOM standard of 2.5 pounds/hour and whose actual VOM emission rate was 2.0 pounds/hour. If a new rule now limits VOM emissions to 1.0 pound/hour, the baseline emissions would be determined using this new emission rate, so that its baseline actual emissions would be half of what was actually emitted during the baseline period (1.0 pound/hour ÷ 2.0 pounds/hour = 0.50).

For projects involving more than one existing emissions unit, the same baseline period must be used for all such units in the actual-to-projected-actual calculations for a particular pollutant. However, a source owner may use different baseline periods for different pollutants.

The projected actual emissions are generally the maximum amount, in tpy, at which the owner or operator of the source projects an existing emissions unit will emit a regulated NSR pollutant in any calendar year in either the five or ten-year period after the unit resumes regular operation following completion of the project. As an alternative to making a projection of actual emissions, the owner or operator may elect to use the PTE of the emissions unit in lieu of actual emissions. If the source owner elects to make a projection, then the defined period for the projection is ten years if the project involves increasing the emissions unit's design capacity or its PTE for 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 source. Otherwise, the defined period is five years. Like the baseline actual emissions, the projected actual emissions include quantifiable fugitive emissions and emissions associated with startups, shutdowns, and malfunctions.

In making the projection, the source owner is required to consider all relevant information. Examples of potentially relevant information specifically listed in the revised NA NSR regulations include the source's expectations regarding its expected business activity and historical operational data.

What are excluded emissions?

If the projected actual emissions of a regulated NSR pollutant from an existing emissions unit exceed its baseline actual emissions, further analysis may be required to assess the extent to which this emissions increase should be considered in determining whether a proposed project is a major modification. As stated by USEPA:

> The NSR regulatory provisions require that the physical or operational change "result in" an increase in actual emissions in order to consider that change to be a modification. In other words, NSR will not apply unless EPA finds that there is a causal link between the proposed change and any post-change increase in emissions.[28]

Accordingly, the revised rule provides that the source must quantify the portion of the emissions increase that is not attributed to the project. The rules provide that, in calculating the increase in emissions that will result from a project, the source shall exclude that portion of the unit's emissions following the project that the unit could have accommodated during the baseline period and that are also unrelated to the particular project. This exclusion or adjustment is sometimes referred to as the "demand growth exclusion."[29]

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[28] "Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Standards of Performance for New Stationary Sources." 57 FR 32314 at p. 32326. (July 21, 1992).

[29] The following example illustrates the "demand growth exclusion." A hypothetical printing plant that is a major source for NA NSR, which is in an area that is nonattainment for ozone, proposes to modify one of its larger printing presses by adding two more printing stations. This will enable this press to print specialty jobs that also involve use

Is an emissions unit that would be installed to replace an existing unit considered a new unit?

If the emissions unit that would be installed would meet the criteria to be considered a *replacement unit*, it would be addressed as an existing unit under the revised rule. That is, the change in emissions would be evaluated comparing the baseline actual emissions of the existing unit and the projected actual emissions of the unit that replaces it.

To be a replacement unit, the following criteria must be met: 1) the unit is a reconstructed unit within the meaning of 40 CFR § 60.15(b)(l) or it completely takes the place of an existing emissions unit; 2) the unit is identical to or functionally equivalent to the replaced emissions unit; 3) the unit that is replaced will permanently cease operation, either being rendered inoperable through physical means or through enforceable permit terms; and 4) the replacement does not alter the basic design parameter(s) of the process unit of which it is a part.[30] For this final criterion, the source owner may select the basic design parameter from several specified parameters relating to input or output capacity and must quantify the basic design parameter using credible information such as design information or the results of historic testing of the capacity of the process unit.

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of inks that contain metallic flecks, in addition to the standard inks applied on the eight existing stations. The pollutant of concern for applicability of NA NSR is VOM. The average VOM emissions of the press in the selected baseline period were 120 tpy. The source owner projects that the annual VOM emissions of the press after the project could be as much as 170 tpy. The difference between this projection and the baseline emissions, 50 tpy, is significant since it is equal to or more than 40 tpy.

Upon closer examination, the source owner realizes that much of this increase in VOM emissions would be due to growth in conventional printing jobs that do not involve use of any metallic inks. The source owner examines the year-by-year growth in use of this press and determines that, even without the two additional printing stations, the future emissions of the press would be projected to be 150 tpy. In addition, this level of operation and VOM emissions would have been accommodated by the presses in the selected baseline period. The design capacity of the press with only eight printing stations is on the order of 165 tpy and changes have not been made to the press since the baseline period to increase its capacity.

The source owner concludes that the increase in VOM emissions from the proposed project is only 20 tpy, which is not significant (170 tpy – 120 tpy – (150 tpy – 120 tpy) = 20 tpy < 40 tpy). The excluded portion of the projected increase (150 tpy – 120 tpy = 30 tpy) could have been accommodated during the baseline time period (150 tpy < 165 tpy). The adjustment is also unrelated to the project as it reflects the operation of the press with only conventional printing jobs. The increase in emissions for the project accounts for all operation and VOM emissions of the press for specialty printing jobs (all 10 print stations), not just the emissions from the two new printing stations.

[30] As defined by the revised NA NSR rule, a "process unit" generally 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."

The use of the term "process unit" in the criteria for replacement units in the NA NSR rule is significant. When a proposed emissions unit would take the place of an existing unit that is part of a collection of units and/or equipment that operates together in an integrated manner, the proposed project must be evaluated relative to its impact on the capacity of the collection of units and/or equipment. While the capacity of the proposed emissions unit considered by itself could be larger than the unit that would be replaced, the overall capacity of the "process unit" could be unaffected if the process unit is constrained by the capacity of its other existing units and/or equipment. Alternatively, a proposed emissions unit that has more capacity than the unit that it would replace could remove a constraint on the capacity of the process unit; in which case, the proposed unit would be addressed as a new unit.

How are the increases in emissions from the various units involved in or affected by a project combined to determine whether the overall increase is significant?

The actual-to-projected-actual calculation is performed for each existing emissions unit and the actual-to-potential calculation is performed for each new emissions unit. The emissions increase from the project is the sum of these differences.

Is the owner or operator of a source required to keep records in conjunction with an actual-to-projected-actual evaluation?

As discussed, for existing emissions units affected by a proposed project, the changes in emissions are evaluated using the actual-to-projected-actual applicability test. As part of this evaluation, a source owner may either make a projection of actual emissions of an emissions unit or elect to substitute the PTE of the unit. If the source owner proceeds based on the projected actual emissions of any unit, certain requirements involving recordkeeping and reporting related to emissions may still apply under the revised NA NSR rule even if the proposed project is not a major modification. These requirements apply on a pollutant-specific basis if either or both of the following criteria are met. The first criterion is that the projected emissions increase from the project is 50 percent or more of the relevant significant emission rate. The second criterion, which applies if the first criterion is not met, is that the projected emissions increase is 50 percent or more of the relevant significant emission rate when any emissions excluded due to the demand growth exclusion are added to the projected emissions increase.

If either criterion is met for a particular pollutant, then, for that pollutant, before beginning actual construction of the project, the source owner must document and maintain a record of a description of the project; a list of emissions units whose emissions may be affected by the project; the applicability analysis including the baseline actual emissions, the projected actual emissions, the amount of the projected actual emissions rate excluded from the emissions increase calculation, and an explanation for why such amount was excluded; and any netting analysis, if applicable.[31]

If the first criterion is met for a particular pollutant, then the source owner must keep records of the emissions of that pollutant from all emissions units identified in the preconstruction applicability analysis and must maintain records for the annual emissions on a calendar year basis. This recordkeeping must be conducted for a period of at least five years following completion of the project, unless the project increases the design capacity or PTE of the emissions unit, in which case these records must be kept for a period of ten years. The source owner must report to the permitting authority if the annual emissions from the project in a calendar year exceed the baseline actual emissions by a significant amount.[32]

[31] If an existing emissions unit affected by the project is an EUSGU, the source must also send a copy of these records to the permitting authority before beginning actual construction.

[32] If an existing emissions unit affected by the project is an EUSGU, then the source must submit a report to the permitting authority within 60 days after the end of each calendar year presenting the unit's annual emissions during the calendar year.

How does one determine whether a project will have a significant net emissions increase?

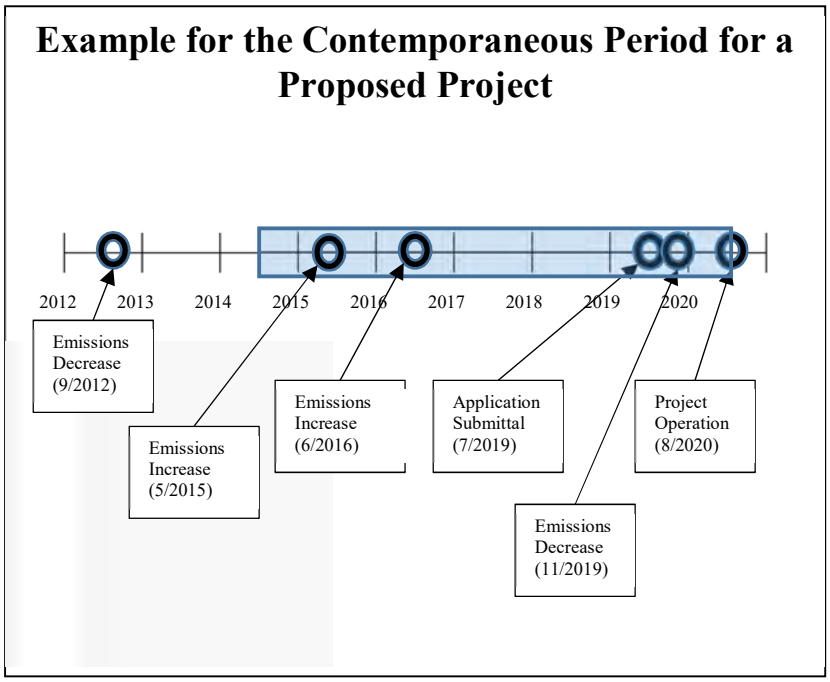
If a proposed project will cause a significant emissions increase in a nonattainment regulated NSR pollutant, then NA NSR applicability generally depends on whether the project will also result in a significant net emissions increase for that pollutant. To show that this will not occur, the permit applicant performs an analysis commonly referred to as a "netting" analysis. This analysis addresses the combination of the significant emissions increase from the proposed project and any other increases and decreases in emissions of that regulated NSR pollutant at the stationary source that are both contemporaneous with the project and creditable. The provisions of the NA NSR rule regarding these two criteria are discussed below in the next two sections.

What is the contemporaneous period for a netting analysis for a proposed project?

An increase or decrease in emissions is contemporaneous with a proposed project if it occurs between the date five years before a timely and complete application for the project is submitted to the Illinois EPA and the date that the emissions increase from the project occurs. The NA NSR rule includes a new definition for the term "complete" for an application submittal that "...contains all of the information necessary for processing the application." Both emission decreases that have already occurred and future emission decreases that will be part of a project or otherwise occur during application processing and construction on a project may be within the contemporaneous period. The contemporaneous period ends when the emission increase from the proposed project occurs, which is generally when a new or modified emissions unit becomes operational. However, an emissions unit that takes the place of an existing unit and that requires shakedown is considered to become operational only after a reasonable shakedown period not to exceed 180 days.[33]

[33] The provisions for emissions units that will take the place of existing units accommodate a reasonable transition between the units. In this regard, it is not appropriate to expect the existing units to be shut down until the shakedown of the new units has been completed and they have demonstrated the ability to reliably take the place of the existing units.

The following example illustrates the provisions of the NA NSR rule governing contemporaneous periods. The example involves a hypothetical project where a complete application was submitted on July 1, 2019 and that will begin operation on August 31, 2020. Accordingly, the contemporaneous period for this project extends from July 2014 through August 2020, inclusive. A netting analysis for this proposed project must address other projects during this period that resulted in increases in actual emissions. In this example, along with the emission increase from the proposed project, there are two previous projects with increases in emissions that must be addressed in the netting analysis, one in May 2015 and one in June 2016. In addition, a planned emission decrease in November 2019 would be contemporaneous and could be included in the netting analysis. A past emission decrease that occurred in September 2012, more than five years before the date of application submittal for the project, is outside the contemporaneous period for the proposed project and cannot be included in this netting analysis.



What emission increases and decreases are creditable in a netting analysis for a project?

In a netting analysis, the creditable amount, if any, for each identified contemporaneous increase and decrease in emissions at the source must be determined. An increase or decrease in emissions generally is not creditable if the Agency has relied on it in issuing an NA NSR permit for the source. This applies only if the permit is in effect when the increase in actual emissions from a particular change occurs.

Also, a decrease in emissions that would result from shutting down an emissions unit is not creditable if the unit would be replaced by a unit that is being addressed as a "replacement unit" in the evaluation for the change in emissions from a proposed project. If this decrease were considered in that evaluation for a proposed project and also allowed to be a creditable decrease in a netting analysis, this decrease would be inappropriately double-counted.

If a particular contemporaneous increase or decrease in actual emissions is not categorically excluded from being creditable, then the creditable amount of the increase or decrease must be determined. The contemporaneous increase in emissions from a particular emissions unit is

creditable to the extent that the new level of actual emissions from the unit exceeds its baseline actual emissions.

A contemporaneous decrease in emissions from a particular emissions unit generally is creditable to the extent that the unit's baseline actual emissions or its old level of allowable emissions, whichever is lower, exceeds its new level of actual emissions. In addition, a decrease is creditable only to the extent that it will be federally enforceable on the date that the source owner begins actual construction of the project for which a netting analysis is being performed. For an emissions unit that is providing an emission decrease but will continue to be operated, this necessarily entails setting limits on the future operation and emissions of that unit, with such limits to become effective no later than the end of the contemporaneous period.

The provisions of the NA NSR rule that govern baseline actual emissions when determining the increase in emissions from a proposed project have already been discussed. When determining the net increase in emissions from a project, two of those provisions do not apply. First, a source may select any eligible baseline period for the baseline actual emissions of an existing emissions unit when determining the creditable amount of the increase or decrease in emissions from the unit. The same baseline period does not have to be used for a regulated NSR pollutant for all emissions units, as is required when determining the emissions increase from the project itself. Second, for an existing emissions unit that is not an EUSGU, while a source remains subject to a requirement to adjust the baseline actual emissions rate downward to exclude any emissions that would have exceeded an enforceable limit, this requirement only applies to enforceable limits that existed just prior to the date of the specific contemporaneous increase or decrease in emissions. Otherwise, new limits established in conjunction with particular contemporaneous increases or decreases, themselves, could result in some or all of those increases or decreases no longer being creditable.

What changes are proposed for the definition of net emissions increase?

The proposed rule revisions pertain to the following changes to the net emissions determination definition under current Section 203.208. These changes are from the 2002 amendments to the federal NSR rules.

(a) Revised the definition to include two-step applicability evaluation. Step 1 is the project emissions calculations and Step 2 is the contemporaneous emissions changes.
(b) Refers to the newly added definition of "baseline actual emissions" for determining contemporaneous emissions changes.
(c) Due to the addition of a new definition of "replacement unit," the language under net emissions increase is revised to allow for a shakedown period for "[a]ny emissions unit that replaces an existing emissions unit."

What are the applicability provisions for projects at major stationary sources in areas classified severe or serious nonattainment for ozone?

CAA Section 182(c)(6) establishes the emissions increase test for VOM and NO_X under the "*de minimis* rule" for physical changes in or changes in the method of operation of major stationary sources located in ozone nonattainment areas classified as serious or severe. Under this provision, an increase in emissions of VOM or NO_X is considered significant if the net emissions

increase of such air pollutant from the stationary source exceeds 25 tpy when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years which includes the calendar year in which such increase occurs. This differs from the otherwise applicable major modification applicability procedure in two respects: (1) the threshold for triggering the requirement for a netting analysis is any increase, rather than a larger threshold such as 25 tpy or 40 tpy, and (2) the contemporaneous period for the netting analysis is shorter.

Consistent with the federal blueprint rule at 40 CFR § 51.165(a)(1)(x)(B) as revised by USEPA in 2005, the *de minimis* rule provisions are proposed to be incorporated in the definition of the term "significant."

What are the applicability provisions for projects at major stationary sources in areas classified extreme nonattainment for ozone?

CAA Section 182(e)(2) establishes the emissions increase test for VOM and NO_X for physical changes in or changes in the method of operation of major stationary sources located in ozone nonattainment areas classified as extreme. Under this provision, any increase in emissions of VOM or NO_X from any emissions unit at a major stationary source is considered significant and the project is a major modification. This differs from the otherwise applicable major modification applicability procedure in two respects: (1) there is no emissions netting under this test and (2) the applicability threshold (i.e., the significant level) is any increase, rather than a larger threshold such as 25 tpy or 40 tpy.

Consistent with the federal blueprint rule at 40 CFR § 51.165(a)(1)(v)(F) as revised by USEPA in 2005, the applicability provisions for changes to existing major stationary sources in extreme ozone nonattainment areas are proposed to be incorporated in the definition of the term "major modification." However, the federal blueprint rule at 40 CFR § 51.165(a)(2) erroneously suggests that the emissions increase calculations for a project at such a source must show that both the emissions increase resulting from the project and the net emissions increase resulting from the project are significant, and the blueprint rule fails to provide a definition for "significant" for such a source. This error is not included in the proposed additions and changes to Part 203.

Do fugitive emissions count when determining whether a project is a major modification?

Fugitive emissions (i.e., emissions that could not reasonably pass through a stack, vent or other similar opening) are always considered when evaluating whether a proposed project at a major source would be a major modification. When the source at which the project would occur is in a category for which fugitive emissions are included when determining if a source is major, the NA NSR rule does not differentiate between the fugitive and non-fugitive emissions of the project.[34]

[34] The categories of sources for which fugitive emissions must be included when determining whether as source is major are: 1) the 28 named categories of sources; 2) categories of sources that, as of August 7, 1980, were being regulated under an NSPS; and 3) categories of sources that, as of August 7, 1980, were being regulated under a NESHAP.

However, if the source at which the proposed project would occur is not in a category for which fugitive emissions are included when determining if a source is major, the fugitive emissions of the project ultimately may not "count." This is because of an exemption in the NA NSR rule that if a proposed project at such a source would only be a major modification due to fugitive emissions, the substantive requirements for issuance of a NA NSR permit shall not apply to the project.

IV. OTHER REGULATORY CHANGES

The USEPA made several other revisions to the federal blueprint rule at 40 CFR § 51.165 to incorporate the 2002 amendments to the federal NSR rules, changes to implement the 8-hour ozone NAAQS, and changes to implement the $PM_{2.5}$ NAAQS. The proposed additions and changes to Part 203 to be consistent with these changes in the federal blueprint rule are described below.

Revisions to definition of the term "actual emissions"

Per the regulatory changes finalized in the 2002 amendments to the federal NSR rules, this term is no longer used for determining major modification applicability. The existing definition is revised to reflect these changes.

Addition of definition of the term "begin actual construction"

The blueprint rule includes a definition for the term "begin actual construction." This term is used to implement the applicability provisions in the 2002 amendments to the blueprint rule. The revised NA NSR rule includes a definition of this term that mirrors the provision under the federal blueprint rule at 40 CFR § 51.165(a)(1)(xv). This definition replaces the currently codified definition of "actual construction." This term also is used to implement the prohibition against starting construction of a new major stationary source or major modification before obtaining a NA NSR permit.

Revisions to definition of the term "commence"

The existing definition is proposed to be revised to be consistent with the corresponding definition under the federal blueprint rule at 40 CFR § 51.165(a)(1)(xvi).

Revisions to definition of the term "net emissions increase"

The definition of this term is proposed to be revised to be consistent with the federal blueprint rule at 40 CFR § 51.165(a)(1)(vi), including expansion of the list of permit regulations under which a decrease in emissions is deemed not be creditable for netting if the Agency "relied on" the decrease in issuing a permit pursuant to such regulation. However, as a practical matter, in Illinois, inclusion of 35 Ill. Adm. Code 201.142 and 201.143 and Part 204 in this provision is immaterial. The meaning of the term "relied on" in this provision is narrow, referring only to emissions decreases credited as emissions offsets under the NA NSR program, as explained by USEPA at the time this provision was promulgated as part of the blueprint rule:

> [A] permitting authority may not credit a decrease to the extent that any permitting authority has already accepted the decrease in satisfaction of the offset requirements of the applicable nonattainment regulations and consequently has

> issued a preconstruction permit to any source or modification, including the source at which the decrease occurred. The purpose of that rule is to prevent any 'double crediting' of 'actual decreases in emissions.' Double crediting would allow air quality to deteriorate without prior review.[35]

All NA NSR permits issued by Illinois EPA are issued pursuant to 35 Ill. Adm. Code Part 203.

Revisions to definition of the term "federally enforceable"

The existing definition is proposed to be revised to be consistent with the corresponding definition under the federal blueprint rule at 40 CFR § 51.165(a)(1)(xiv).

Deletion of the definition of the term "emission baseline"

This term is no longer used under Part 203, as it is proposed to be revised, and the definition therefore is proposed to be deleted.

Condensable particulate matter

As part of the October 2012 final rule to implement the NA NSR program for $PM_{2.5}$ NAAQS, the USEPA revised the blueprint rule at 40 CFR § 51.165(a)(1)(xxxvii) to require inclusion of condensable particulate matter when quantifying emissions of PM_{10} and $PM_{2.5}$. This provision is proposed to be added to Part 203.

Regulation of PM_{10} precursors

As part of the 2005 final rule to implement the 8-hour ozone NAAQS, the USEPA incorporated provisions into the blueprint rule at 40 CFR § 51.165(a)(10) requiring regulation of identified PM_{10} precursors in PM_{10} nonattainment areas, except where the USEPA determines major stationary sources of PM_{10} precursors do not contribute significantly to PM_{10} levels in the area.[36] This provision is proposed to be added to Part 203. Consistent with the blueprint rule, no PM_{10} precursors are proposed to be identified at this time.

Emissions offset maintenance requirement

Current 35 Ill. Adm. Code 203.602 prohibits operation of a major stationary source or major modification where the owner or operator has demonstrated that it would not interfere with reasonable further progress by acquiring emissions offsets pursuant to Part 203 "without maintaining those emissions offsets or other equivalent offsets." The federal blueprint rule requires enforceability through a different mechanism, focusing on the source(s) at which emissions reductions used as offsets were generated. Part 203 as it is proposed to be revised is consistent with the revised provisions of the blueprint rule, requiring that emissions reductions used as offsets be federally enforceable under the CAA and also that they be enforceable either by Illinois EPA or, if the reductions occur in a neighboring state, by the state or local permitting authority in the neighboring state.

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[35] 45 Fed. Reg. 52676 at p. 52702 (August 7, 1980) "Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans."

[36] 70 FR 71612 at p. 71699 (Nov. 29, 2005) "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard."

V. SUBSTANTIVE REQUIREMENTS IN NONATTAINMENT AREAS

The NA NSR permitting program includes the following substantive requirements for issuance of a NA NSR permit for a new major stationary source or a major modification in a nonattainment area:

(a) LAER
(b) Emissions offsets
(c) Compliance certification for existing major stationary sources
(d) Analysis of alternatives

The requirements for LAER and emissions offsets apply only with respect to the regulated NSR pollutant for which the area is designated nonattainment.

The proposed changes to the substantive requirements are discussed below.

Changes to the LAER provisions

No material changes to this provision are proposed. Applicability of LAER to major modifications is revised by adding the following phrase, as denoted in italics: ". . . as a result of a physical change or change in the method of operation *in the emissions unit*." This revision will clarify the meaning of the term "modified emissions unit" as used in the LAER definition.

Interprecursor trading

The Part 203 rule provisions relating to emissions offsets are proposed to be revised expressly to provide for interprecursor trading in order to satisfy the requirement for emissions offsets in $PM_{2.5}$ nonattainment areas. Consistent with the federal blueprint rule at 40 CFR § 51.165(a)(11), the prohibition on interpollutant trading will be maintained, except that trading of direct $PM_{2.5}$ emissions and identified $PM_{2.5}$ precursors in $PM_{2.5}$ nonattainment areas will be allowed if specified conditions are met. The interprecursor trading provision included in the proposed revisions to Part 203 is more prescriptive than the federal blueprint rule regarding the permit application requirements and the approval procedure: The blueprint rule requires only that the interprecursor trading ratio be approved by USEPA as part of the Part D SIP for the particular nonattainment area. The proposed revisions to Part 203 require that the permit application in which interprecursor trading is proposed must include the following:

- A proposed trading ratio with accompanying calculations;
- A demonstration that the proposed ratio would provide an equivalent or greater air quality benefit than offsets of the emitted pollutant or precursor would achieve with respect to ambient concentrations of $PM_{2.5}$ in the $PM_{2.5}$ nonattainment area;
- A demonstration that the proposed ratio is based on the results of an analysis that is consistent with Appendix W to 40 CFR Part 51, as required by the federal blueprint rule at 40 CFR § 51.160(f); and

- A description of the model or models and analysis that were used to develop the proposed case-specific IPT ratio.[37]

This prescriptiveness is necessary to ensure that the Agency will be provided with all information necessary to submit to USEPA a complete request for approval of the proposed interprecursor trading ratio as a revision of the Illinois SIP. The Agency is prohibited from issuing an NA NSR permit that relies on interprecursor trading prior to USEPA approval of such ratio as a revision of the Illinois SIP.

Changes to the offset baseline provisions applicable to shutdowns and curtailments

The emissions offsets baseline provision in the currently codified rule at 35 Ill. Adm. Code 203.303 allows broad use of emissions reductions resulting from shutdowns or curtailment of production or operating hours if the shutdown or curtailment occurred after the date of USEPA approval of the attainment demonstration for the area. However, if the shutdown or curtailment occurred before the date of USEPA approval of the attainment demonstration, the resulting emissions reductions may be used as emissions offsets only if the proposed source or modification is a replacement for the shutdown or curtailment. These provisions reflect the requirements of the CAA prior to the 1990 CAA amendments. The emissions offset provisions were changed in the 1990 CAA amendments, and those statutory changes were adopted by USEPA in revisions to the blueprint rule at 40 CFR § 51.165(a)(3)(ii)(C)(1)(ii) in 2005.[38] The revised provisions, which are proposed to be adopted in Part 203, provide as follows:

(a) The shutdown or curtailment is creditable as offset if it occurred after the last day of the base year for the SIP planning process.
(b) A prior shutdown or curtailment that occurred before the base year remains creditable if Illinois EPA maintained those emissions in the projected emissions inventory used to develop the attainment demonstration.

In addition to the prior shutdown or curtailments, the emissions offset baseline provision as it is proposed to be revised includes provisions from 40 CFR § 51.165(a)(3)(ii)(C)(2) to allow for use of certain shutdown or curtailments as offsets as noted below:

(a) The shutdown or curtailment will occur after the date of construction permit application for the project is filed that requires offsets.
(b) The applicant demonstrates that the new emissions unit is a replacement of a shutdown or curtailed unit.

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[37] These analyses generally are performed using photochemical grid models. *See, e.g.,* Section 5.4.1 of Appendix W ("Control agencies with jurisdiction over areas with secondary $PM_{2.5}$ problems should use models that integrate chemical and physical processes important in the formation, decay, and transport of these species (*e.g.*, photochemical grid models)"); see, also, memorandum regarding "Revised Policy to Address Reconsideration of Interpollutant Trading Provisions for Fine Particles ($PM_{2.5}$)," Gina McCarthy, Assistant Administrator, USEPA (July 21, 2011) ("For precursor emissions, a photochemical model (e.g., CMAQ, CAMx) at grid resolution of 12 kilometers (km) or less is recommended to predict changes in $PM_{2.5}$ concentrations.").

[38] *See* 70 Fed. Reg. 71612 (November 29, 2005) "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline."

Other changes to the emissions offset provisions

The following additional revisions are proposed for the emissions offset provisions under the NA NSR program:

(a) As required by the federal blueprint rule at § 51.165(a)(3)(ii)(J), Part 203 as it is proposed to be revised includes a provision clarifying that the amount of the emissions increase from a major modification that must be offset is calculated as the difference between the allowable emissions after the modification and the actual emissions before the modification.

(b) The provisions of Part 203 relating to the location of the emissions reductions used as emissions offsets are proposed to be revised consistent with the federal blueprint rule as revised in 2005.

(c) Part 203 as it is proposed to be revised includes a provision clarifying that emissions reductions used as emissions offsets generally must be accomplished (i.e., must occur) prior to initial start-up of the new major stationary source or major modification. This timing provision is not addressed in the federal blueprint rule. Consistent with Section V of Appendix S, the proposed rule revisions clarify that, where the major stationary source or major modification is a replacement for the stationary source at which a shutdown is occurring in order to provide the necessary emissions offsets, a reasonable shakedown period of up to 180 days is provided before the cessation of operation at the stationary source at which the shutdown is occurring.

One recent change to the emissions offset provisions in the federal blueprint rule at 40 CFR § 51.165(a)(3)(ii)(D) is not included in the proposed revisions to Part 203 because it would reduce the stringency of Part 203. The federal blueprint rule, as recently revised, allows offset credit to be granted for replacing a non-hydrocarbon VOM with another non-hydrocarbon VOM of lesser photochemical reactivity. The currently codified offset provision under 35 Ill. Adm. Code 203.303(e) is more stringent, as it prohibits the granting of offset credit for replacing any VOM with any other VOM, regardless of whether the VOM constituents are hydrocarbons.[39] This more stringent provision is proposed to be retained.

VI. NA NSR PERMITTING FOR SOURCES IN ATTAINMENT AREAS

The federal blueprint rule at 40 CFR § 51.165(b) requires the NA NSR program to include permitting requirements for a new major stationary source or major modification located in an attainment or unclassifiable area which would cause or contribute to a violation of any NAAQS. The proposed revisions to Part 203 will add these provisions in a new Subpart R.

The determinations of whether there is a major stationary source or a major modification for purposes of the new Subpart R is made using the same definitions and procedures as in nonattainment areas, with two exceptions. First, instead of applying to pollutant(s) for which the site of the proposed major stationary source or major modification is designated nonattainment,

[39] A hydrocarbon is a chemical compound that consists entirely of carbon and hydrogen. See, for example, *Terms of Environment: Glossary, Abbreviations and Acronyms* (EPA-175/B-92-001), U.S. EPA, Sept. 1992, at 15 (available at https://nepis.epa.gov/Exe/ZyPDF.cgi/200081E1.PDF?Dockey=200081E1.PDF). Many chemical compounds that are not hydrocarbon, such as ethanol and ethylene oxide, are VOM.

the NA NSR program applies to the pollutants for which the major stationary source or major modification would cause or contribute to a NAAQS violation. Second, the lower emission thresholds applicable in nonattainment areas classified as serious, severe, and extreme do not apply.

For a facility that is a major stationary source both under the NA NSR program and under the PSD program, the requirements of the new Subpart R apply in addition to, rather than in lieu of, the requirements of Part 204.

Predicted impacts are deemed to cause or contribute to a NAAQS violation for purposes of the new Subpart R if these impacts exceed the significant impact levels shown in the table below.

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

Assessments of whether a new major stationary source or a major modification would cause or contribute to a NAAQS violation under the new Subpart R are generally made using computer dispersion modeling consistent with the provisions of 35 Ill. Adm. Code 204.1120. As required by the federal blueprint rule at 40 CFR § 51.164 and by Section 123 of the Clean Air Act, the analysis must not take credit for stack height in excess of the good engineering practice (GEP) or for any other dispersion technique. Part 203 as it is proposed to be revised includes provisions implementing this prohibition. These provisions are in a new Subpart K.

For a major stationary source or major modification which would locate in an attainment or unclassifiable area and would cause or contribute to a violation of any NAAQS, one substantive requirement must be met in order to obtain a NA NSR permit: the owner or operator of the proposed major stationary source or major modification must reduce the impact of the proposed emissions increase on air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient impact where it would otherwise cause or contribute to a violation of a NAAQS.

VII. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS OF PROPOSED REVISIONS TO PART 203

Are the requirements of the proposed rule technically feasible?

All requirements of the proposed revisions to the NA NSR rule at 35 Ill. Adm. Code Part 203, are technically feasible. Notably, the substantive requirement of the NA NSR rule that is the basis for most emission limits is the LAER requirement. This requirement expressly provides

that the Illinois EPA impose only emission limits that it determines, on a case-by-case basis, to be achievable (i.e., technically feasible) for the emissions units and stationary sources to which those limits will apply.

Are the requirements of the proposed rule economically reasonable?

The requirements of the proposed revisions to NA NSR rule are economically reasonable. The adoption of these revisions to NA NSR rule will make the program consistent with the federal provisions for existing and proposed stationary sources that are located in nonattainment areas in Illinois or that are located in attainment or unclassifiable areas in Illinois and would cause or contribute to a NAAQS violation. In addition, Illinois' neighboring States, where applicable, have already incorporated these revisions to NA NSR programs in the applicable SIPs. The proposed revisions will not impose any unreasonable economic burden.

VIII. STATE IMPLEMENTATION PLAN CONSIDERATIONS

With the exception of the transition provisions governing treatment of VOM and ammonia as $PM_{2.5}$ precursors, the State of Illinois is required to submit the proposed revisions to the state NA NSR program to the USEPA as a revision to Illinois' SIP. Section 110(1) of the CAA prohibits USEPA from approving a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. As previously addressed in this document and discussed in greater detail in the accompanying Statement of Reasons, the provisions of the proposed revised rule would generally mirror the provisions of the existing federal NA NSR blueprint rule at 40 CFR § 51.165. Given that the state NA NSR permit program addressed by proposed Part 203 would be substantially identical to the currently applicable federal NA NSR program, the proposed amendments are approvable as a SIP revision pursuant to the CAA Section 110(l).