BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	**R22-17**
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	)	

NOTICE

TO: Don Brown
Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601-3218

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Pollution Control Board the **ILLINOIS EPA'S SECOND SET OF ANSWERS, COMMENTS AND RECOMMENDATIONS FOR ADDITIONAL REVISIONS** a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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DATED: September 12, 2022

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ILLINOIS EPA'S SECOND SET OF ANSWERS, COMMENTS AND RECOMMENDATIONS FOR ADDITIONAL REVISIONS

The Illinois Environmental Protection Agency (Illinois EPA), by its attorney, offers the following answers, comments and recommendations for revisions to Title 35 of the Administrative Code. The Illinois EPA reserves the right to offer additional comments and recommendations on Illinois Environmental Regulatory Group's (IERG) proposal at a later date.[1] At this time, the Illinois EPA requests that the Illinois Pollution Control Board (Board) consider these answers, comments and additional proposed amendments as part of this rulemaking proposal and offers as follows:

ILLINOIS EPA RESPONSES TO THE APRIL 4, 2022, QUESTIONS OF THE BOARD

1. On page 3, the Agency proposes changes to Section 203.100 to ensure that permits historically issued by the Agency under existing Part 203, Subparts A through H, continue to be in effect.

   a. Please clarify whether the renewal of historical permits issued under Part 203, Subparts A thru H would be done under the Subparts I thru R upon full approval of the proposed rules by USEPA.

      Construction permits issued by the Illinois EPA for air pollution projects are generally not renewed by the Illinois EPA.[2] Rather these permits are

[1] As discussed later in this document, the Illinois EPA will be requesting leave from the Board to more fully comment on IERG's proposed 35 Ill. Adm. Code 203.100.

[2] **A source must commence construction within 18 months of receiving a NSR permit, and construction must be continuous and completed in a reasonable period of time, or the permit**

permanent except for two situations. One is that construction would not begin in a timely manner so that the permit "expires" or lapses.[3] The other is that a revision to a permit is requested by the Permittee. If a permit revision is requested by the source to a permit originally issued under existing Part 203, Subparts A thru H would apply for the revision. Similarly, if a permit change is requested by a source for a permit issued under revised Part 203, Subparts I thru R would apply when revising the permit made under these Subparts. Similarly, Part 203, Subparts A thru H or I thru R, as appropriate, would govern projects that occurred without the benefit of permits depending on the timing of the project.

b. If so, comment on whether Section 203.100 should be revised further to reflect the proposed intent.

Given permit renewals have not and would not be issued under Part 203, Section 203.100 does not need to be revised to address the concern posed by the Board in this Question Number 1. However, other revisions to proposed Section 203.100 are necessary as previously discussed in the Illinois EPA's Comments and Recommendations for Additional Revisions ("Illinois EPA's Comments") and as will be later addressed in these comments.

c. If not, explain the rationale for requiring historical permits to be subject to Subparts A thru H rather than the amended rules under Subparts I thru R.

The new source review (NSR) program is a stationary source *preconstruction* permitting program. (*emphasis added*). If construction of a major stationary source or major modification timely commenced by means of a permit issued by the Illinois EPA, construction was required to take place pursuant to the terms of such permit. These permits are permanent for the term of the permit. In many instances, existing Part 203 is more stringent than Part 203 as proposed by IERG. While the approach suggested by this question would be inconsistent with the definition of "commence," it would also make little sense to renew the terms of a construction permit after the completion of

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becomes invalid. *See,* existing definition of "commence" at 35 Ill. Adm. Code 203.113 and proposed definition of "commence" at 35 Ill. Adm. Code 203.1100.
While in the context of Prevention of Significant Deterioration (PSD) permits, the USEPA has offered draft guidance that details a recommended process for making revision(s) to existing permits and for granting of permit extensions. *See*, USEPA's *Revised Draft Policy on Permit Modification and Extensions*, dated July 5, 1985. The USEPA revised this draft guidance in June 1991 but did not issue a final policy or regulation implementing this provision.

[3] Consistent with this understanding, Condition 1 of the Standard Conditions that the Illinois EPA routinely includes in construction permits states as follows:

> **Unless this permit has been extended or it has been voided by a newly issued permit, this permit will expire one year from the date of issuance, unless a continuous program of construction or development on this project has started by such time.**

construction activities by means of a different, and less stringent, set of regulatory requirements.

2. On pages 3-4, the Agency states that the proposed NANSR rules would generally relax the stringency of how emissions are calculated for purposes of applicability for proposed major modifications at major sources, and thus may reduce the number of construction projects at existing major sources that meet the definition of a major modification.

   a. Please Identify the specific provisions of the proposed rules that changes the existing emissions calculation methodology.

   The following provisions of proposed Part 203 would change how emissions are calculated for purposes of applicability under existing Part 203. The Illinois EPA would note that the following listing does not address those provisions that have historically been addressed by means of 40 CFR 52.24(k) and Appendix S. As previously discussed by the Illinois EPA in the Illinois EPA's Comments, Section 52.24(k) provides that the requirements of Appendix S apply to permits to construct and operate in newly designated nonattainment areas during the state implementation plan (SIP) development period, i.e., the time between the effective date of the designations and the date USEPA approves the nonattainment new source review (NA NSR) program meeting Clean Air Act, Part D is approved.

   35 Ill. Adm. Code 203.1040[4]
   35 Ill. Adm. Code 203.1070
   35 Ill. Adm. Code 203.1160(b)
   35 Ill. Adm. Code 203.1260(a)
   35 Ill. Adm. Code 203.1260(b)(1), (2), (3), (5)
   35 Ill. Adm. Code 203.1320
   35 Ill. Adm. Code 203.1350
   35 Ill. Adm. Code 203.1370(b)
   35 Ill. Adm. Code 203.1380
   35 Ill. Adm. Code 203.1410(c)(3), (4), (5), (6)
   35 Ill. Adm. Code 203.1410(e)
   35 Ill. Adm. Code 203.2100(c)
   35 Ill. Adm. Code 203.2120[5]
   35 Ill. Adm. Code 203.2130

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[4] IERG's proposed change to the definition of "actual emissions" in 35 Ill. Adm. Code 203.1040 and its use in the following provisions, 35 Ill. Adm. Code 203.1260(a), 203.1260(b)(1), (2), (3) and (5), and 203.1370(b), would provide a different calculation methodology compared to existing Part 203.

[5] As an alternative to the major modification applicability criteria, proposed Part 203 would allow an existing major stationary source to obtain a Plantwide Applicability Limit (PAL) for a particular pollutant. This alternative provides an entirely different set of applicability criteria. *See,* proposed Subpart Q, Sections 203.2100 thru 203.2420.

35 Ill. Adm. Code 203.2300(b)
35 Ill. Adm. Code 203.2310(a)(1), (4)
35 Ill. Adm. Code 203.2330
35 Ill. Adm. Code 203.2370(d)
35 Ill. Adm. Code 203.2380(a)(2)
35 Ill. Adm. Code 203.2380(b)

b. Comment on the Agency's position regarding the proposed relaxation of the emissions calculation under IERG's proposal that may reduce the number of major modifications in the NAA.

As is apparent from the fact that the Illinois EPA consulted with IERG about its proposed revisions to Part 203, the Illinois EPA does not oppose revisions to Part 203 to generally reflect provisions of 40 CFR 51.165 as it now exists. The Illinois EPA's opinion is that this rulemaking should ensure that Part 203 meets the requirements for a SIP approval by the United States Environmental Protection Agency (USEPA) in 40 CFR 51.165. A key constraint on the Board is whether the USEPA will approve IERG's proposed revisions to Part 203. While this portion of the rule would likely be acceptable to USEPA as a SIP-revision, the Illinois EPA would object to the inclusion of any language or interpretation that would relax the provisions in Part 203 that govern any construction permits previously issued pursuant to existing Part 203.

c. If the Agency is amenable to the proposed rules, comment on why such relaxation of emissions calculation should not be extended to existing sources permitted under Subparts A thru H when permits are due for renewal after the full approval of the proposed rules.

As previously discussed, these permits are generally permanent except for either of the two scenarios discussed above. Given construction should typically be complete and renewal would not be appropriate, the methodology for how emissions are calculated for purposes of applicability should not be relaxed for existing sources previously permitted under existing Part 203.

3. Regarding the proposed definition of "net emissions increase" under Section 203.1260, please clarify whether the Agency is proposing any revisions or just providing an explanation of the definition.

The Illinois EPA is proposing one revision to the proposed definition of "net emissions increase" in Section 203.1260(b)(3)(D) as follows:

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

***

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

***

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 or 40 CFR 52.21 and has not relied on it for demonstrating attainment or reasonable further progress.

The remainder of the discussion of "net emissions increase" on pages 6 through 9 of the Illinois EPA's Initial Comments and Recommendations for Additional Revisions (Initial Comments) provided further explanation for the definition and responded to statements made by IERG in its Technical Support Document (TSD).

3-1. There are certain comments the Agency has made, including the definition of net emissions increase where you have provided the Agency's interpretation of the proposed rules, and some of the explanations differ from IERG's technical support document descriptions. So the question is whether IEPA wants your interpretation to be memorialized in the opinion, if the Board agrees with that?

Yes, if the Board agrees with the Illinois EPA's interpretation, the Illinois EPA would like its interpretation memorialized in the Board's Opinion and Order.

4. Regarding the definition of "project" under Section 203.1300, please clarify whether any revisions to the proposed rules are necessary to reflect the Agency's concerns to address "debottlenecking" and "project netting". If not, comment on whether the Agency wants the Board to memorialize the Agency's concerns in the Board opinion.

While no rule language changes are necessary, if the Board agrees with the Illinois EPA's interpretation, the Illinois EPA would like its interpretation memorialized in the Board's Opinion and Order.

5. Regarding the significant emissions rate for NOx and VOM in serious or severe ozone nonattainment areas, the Agency states that the information in the TSD table (pg. 19-20) is inaccurate and incomplete. PC 6 at 23. Further, the Agency provides clarification of how "netting" must be applied to be consistent with the USEPA's guidance. *Id.* at 24-25. Please comment on whether any rule language changes are necessary to maintain consistency with the USEPA guidance on the application of "netting" to determine significant emissions of NOx and VOM. If so, proposes the appropriate language changes.

No rule language changes are necessary. The Illinois EPA's discussion on pages 23 through 25 of the Illinois EPA's Initial Comments was offered to clarify and

correct information in the TSD table on pages 19 through 20 as it addressed the significant emissions rate for NOx and VOM in serious and severe ozone nonattainment areas.

6. On page 27, regarding the determination of significant emissions increase from a proposed NANSR project, the Agency clarifies that decreases in emissions at affected emissions units resulting from the project need not be addressed with a broader netting analysis for other contemporaneous changes in emissions. The Agency provides similar clarification regarding PSD project on pages 44-45. Please clarify whether the proposed rules under Sections 203.1410(c) and 204.800(d) must include a provision reflecting the Agency's clarification to avoid any confusion with the interpretation of the proposed regulations.

   No rule language changes are necessary to proposed Sections 203.1410(c) and 204.800(d) to address the Illinois EPA's clarification on pages 27 and 44 through 45 of the Illinois EPA's Initial Comments.

ILLINOIS EPA'S RESPONSE TO THE BOARD'S AUGUST 11, 2022, ORDER

In the Board's August 11, 2022, Order granting the Attorney General's Office leave to file a reply in support of its motion to stay and setting the pre-first notice final comment deadline, the Board encouraged the Illinois EPA, in addition to other participants, to provide comments on:

> [T]he inclusion of the Project Emissions Accounting Rule language. The Board would like to hear whether the Project Emissions Accounting Rule should remain in the proposed Sections 203.1410 and 204.800, and what are the implications of moving forward with the IERG's proposal without it.

The Project Emissions Accounting (PEA) language proposed by IERG in Section 203.1410(c)(5) and (6) is consistent with the blueprint at 40 CFR 51.165(a)(2)(ii)(F) and (G).[6] As such, it is not inappropriate for this language to be included in revised Part 203. By way of

[6] While PEA would be applicable in all nonattainment areas, the more stringent de minimis rule would apply in serious or severe nonattainment areas. The de minimis rule provides that increased emissions of volatile organic compounds or nitrogen oxides resulting from any physical change or change in the method of operation of a stationary source located in such area shall not be considered de minimis for purposes of applicability unless the net emissions increase of such pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years that includes the year in which such increase occurred. *See,* Clean Air Act §182(c)(6) and (8), (d); *see also*, 35 Ill Adm. Code 203.1370(c). In areas classified as extreme

explanation, this language would memorialize PEA for purposes of applicability of NA NSR in Illinois. That is, emissions decreases as well as increases are to be considered in Step 1 of the applicability determination process for a modification if the emission decreases are part of the project. Emission decreases that are unrelated to the project would not be considered in Step 1 under PEA but may be available in Step 2 (contemporaneous netting).[7] For example, if a proposed new unit (emissions increase) would be accompanied by the shutdown of an existing unit that it would replace (emission decrease), the determination of applicability can consider both the potential increase in emissions from the new unit and the actual decrease in emissions

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nonattainment for ozone, any increase in emissions of volatile organic compounds or nitrogen oxides from any change at a major stationary source would continue to be considered a modification. *See,* Clean Air Act §182(e)(2); *see also,* 35 Ill. Adm. Code 203.1370(d).

[7] In USEPA's rulemaking proposing to revise the NSR applicability regulations to clarify the requirements that apply to sources proposing to undertake a physical or operational change, USEPA explained that these revisions were not necessary but were being proposed to promote clarity:

> After consideration of the "project netting" regulatory history, past interpretations, and the recent public comments on this topic, in March 2018, the EPA Administrator issued a memorandum titled 'Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program" (the "March 2018 Memorandum")[38] The March 2018 Memorandum communicated the EPA's current interpretation regarding the consideration of emissions decreases as part of Step 1 of the major modification applicability test. In the memorandum, the agency explained that it interprets the current NSR regulations as providing that emissions decreases as well as increases are to be considered at Step 1 of the NSR applicability process, where those decreases and increases are part of a single project.[39] Unlike in 2006, EPA determined in the March 2018 Memorandum that decreases could be considered at Step 1 for all project categories (i.e., new, existing or projects that involve multiple types of emissions units). *Although the existing langue in the NSR regulations supports this interpretation, this rulemaking proposal is intended to eliminate uncertainty regarding this issue.* As discussed in more detail below, we propose to revise the NSR applicability procedures for projects that involve multiple types of emissions units *to make clear* that project emissions accounting should be conducted under Step 1 of the major modification applicability procedures for all project categories, consist with the interpretations set forth in the March 2018 Memorandum.
>
> Footnotes
> [38] Omitted.
> [39] Omitted.

84 Fed. Reg. 39244, 39248 (August 9, 2019) (*emphasis added*).

from the shutdown of the existing unit.[8] Given the blueprint now expressly provides for PEA in 40 CFR 51.165(a)(2)(ii)(G), omission of this language from Part 203 would indicate that PEA is not provided for in the NA NSR applicability determination process in Illinois. Rather for purposes of Part 203, applicability would be determined consistent with USEPA's interpretation prior to PEA that the relevant provisions of the regulations preclude the consideration of emissions decreases at Step 1.

When the Illinois EPA proposed the state's PSD program on July 2, 2018, it was based largely on the federal PSD regulations at 40 CFR 52.21 but further, the requirements for a SIP submittal to USEPA in 40 CFR 51.166. *Accord.*, Sections 3.363 and 9.1(c) of the Act, 415 ILCS 5/3.363 and 9.1(c). At the time that the Illinois EPA filed its Part 204 regulatory proposal to the Board, the Project Emissions Accounting Rule language did not yet exist in 40 CFR 52.21(a)(2)(iv)(*f*) and (*g*) or 51.166(a)(7)(iv)(*f*) and (*g*). However, USEPA interpreted its existing PSD regulations as providing for emissions decreases, as well as increases, to be considered at Step 1 of the NSR applicability process if they were part of a single project. *See, USEPA's Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program,* dated March 13, 2018.

The Illinois EPA's proposed Part 204 necessarily included relevant USEPA guidance, at that time, interpreting 40 CFR 51.166 and 40 CFR 52.21 including this guidance memorializing PEA. The Illinois EPA explained as follows in its accompanying Statement of Reasons:

> Determining whether a proposed project at an existing major stationary source is a major modification is a multi-step process. As an initial matter, the project must include a new emissions unit or a physical change or an operational change (or a change in the method of operation) of an existing emission unit or major stationary source so as to constitute a

[8] While emission decreases may also be considered as part of "netting" in Step 2 of the NSR applicability determination process, PEA differs from netting in that contemporaneous emissions increases from other projects do not have to be considered. PEA only addresses the changes in emissions with the project for which NSR applicability is to be evaluated.

modification. 40 CFR 51.166(b)(2)(i). Then, a major modification is generally based on whether the proposed project will cause a significant emissions increase for a regulated pollutant and also a significant net emissions increase for the same pollutant. 40 CFR 51.166(b)(2)(ii). The change in emissions for a project is the sum of the increases and decreases in actual emissions from existing emissions units as a result of the project and the increases in potential emissions from new units installed as part of the project.[17, 18] If the increase in emissions for a particular pollutant equals or exceeds the significant emission rate set for that pollutant, then the analysis may be extended to include creditable changes in actual emissions resulting from other contemporaneous projects to consider the net change in emissions of the source. 40 CFR 51.166(b)(3). This consideration of contemporaneous changes in emissions is commonly referred to as a "netting" exercise. Netting is used when a proposed modification is significant by itself but would not be subject to PSD by taking into account other emission decreases during the contemporaneous timeframe. In the most-simple terms, the emissions increase from the proposed modification plus all other creditable contemporaneous emission increases and decreases are summed together. *New Source Review Workshop Manual* (Draft 1990), (*NSR Manual*)[19] A.35. A PSD permit is required for a proposed modification if for a subject pollutant the emissions increase from the modification, itself, and the net emission increase from the modification are both significant.

Footnotes

[17] On March 13, 2018, the USEPA Administrator found that the relevant provisions of 40 CFR 52.21(a)(2)(iv) and 40 CFR 51.166 provide that the "differences in emissions" from the various emission units involved in a project should always be summed. (Scott Pruitt, Administrator of USEPA, Memorandum, "Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program," March 13, 2018.) This interpretation is the subject of a petition for review currently pending before the U.S. Court of Appeals for the District of Columbia. *Environmental Defense Fund, Natural Resources Defense Council and Sierra Club v. U.S. Environmental Protection Agency and Scott Pruitt,* Case No. 18-1149, on May 29, 2018.

Prior to the issuance of this memorandum, the handling of the changes in emissions from a proposed project under the federal PSD rule depended on the types of emissions units involved in a project. If the project only involved existing units, differences in emissions were summed. However, if the project involved both existing and new units (or only new units), only the increases in emissions were to be summed without any consideration of decreases in emissions that would occur in the project.

[18] Omitted.

[19] Omitted.

During the Part 204 rulemaking, a question was posed to the Illinois EPA concerning whether applicability under proposed Part 204 would differ from applicability under existing 40 CFR 52.21 to which the Illinois EPA responded:

> As proposed on July 2, 2018, PSD applicability under proposed Part 204 would not differ from PSD applicability under 40 CFR 52.21. Future changes to the applicability

requirements of 40 CFR 52.21 would potentially result in differences in applicability between 40 CFR 52.21 and Part 204.

In the Matter of Proposed New 35 Ill. Adm. Code 204, Prevention of Significant Deterioration, et al., R19-1, Illinois EPA's Post Hearing Comments, dated January 24, 2019, Response to Comment, Illinois Environmental Regulatory Group, 1-a.

While language for PEA did not explicitly exist in USEPA's rules at the time of the Board's Part 204 rulemaking, the USEPA's March 2018 guidance did and is currently relied upon by the Illinois EPA for applicability determinations under Part 204 consistent with the USEPA's interpretation for the language that is present in Part 204. However, if the language for PEA were included in revised Part 203 but similar language is not added to Part 204 this would suggest that PEA is allowed under Part 203 but not Part 204.

ILLINOIS EPA RESPONSES TO IERG'S SECOND POST-HEARING COMMENT OF THE ILLINOIS ENVIRONMENTAL REGULATORY GROUP[9]

IERG's Rationale/Support for Filing Proposed Amendments to Part 203

The Illinois EPA appreciates the work of IERG in developing this proposed rulemaking. As observed by IERG, it is reasonable for Part 203 to be revised so that it explicitly addresses $PM_{2.5}$. While there are not currently any $PM_{2.5}$ nonattainment areas in Illinois, if USEPA lowers the NAAQS for $PM_{2.5}$, there could be $PM_{2.5}$ nonattainment areas in Illinois in the future.

That said, the Illinois EPA is reluctant to continue the dialogue with IERG about how "increases in actual emissions" are to be determined pursuant to existing Part 203 and the implications for construction permits. There is obviously a difference in opinion between the Illinois EPA and IERG on this topic. However, the discussion of the relevant provisions of the

[9] To aid the reader, the Illinois EPA's response to IERG's Second Post-Hearing Comment of the Illinois Environmental Regulatory Group (IERG's Second Comment) will follow the same order and layout as the Illinois EPA's Comments filed on March 21, 2022.

existing rules would become academic when revisions to Part 203 are adopted that implement NSR Reform and Project Emission Accounting, as now allowed by 40 CFR 51.165, the "blueprint rule."

Nevertheless, as IERG has observed in its comments, it is appropriate that the record on "how increases in emissions are to be determined" for purposes of NA NSR under the Clean Air Act be clear. This is not inappropriate to the extent that it is reasonably possible to do so. The Illinois EPA acknowledges that there has been extensive caselaw on this topic. The nature of this case law does not enable a simple conclusion as to what USEPA considers should be required in all circumstances. This is because USEPA's position has evolved over time. In addition, determinations on particular projects are frequently fact-specific. However, the Illinois EPA considers itself obligated to point out that much of this case-law concerns projects involving electric utility steam generating units rather than units at manufacturing plants. This is apparent when the quote from the court's decision in *Sierra Club v. Talen Montana, LLC,* 2015 WL 13714343, provided by IERG is reviewed in its entirety.[10]

B. Representative Actual Annual Emissions

1. Background

> The EPA proposed to clarify its methodology for calculating emissions increases at *electric utility steam generating sources* that had begun normal operations. The EPA proposed to compare actual emissions before and after changes for all physical or operational changes at an existing *electric utility steam generating unit* other than the addition of a new unit or the replacement of an existing unit. The EPA proposed to consider a unit to be replaced it if would constitute a reconstructed unit within the meaning of 40 CFR 60.15. Since there is no relevant operating history for wholly new units and replaced units, it is not possible to reasonably project post-change utilization for these units, and hence, their future level of "representative annual actual emissions." For other changes, past operating history, and other relevant information, provides a basis for reasonable projections.

[10] It should also be noted that the quote in the court decision cited by IERG is actually from language on 57 FR 32323, not 57 FR 32317.

57 FR 32323 (Emphasis added).

In addition, it is also relevant that in 57 Fed. Reg. 32314, 32317, USEPA stated the following:

> Because the applicability determination must be made in advance of construction, EPA's NSR regulations provide that when an emissions unit "has not begun normal operations," actual emissions equal the "potential-to-emit of the unit" [see 40 CFR 52.21(b)(21)(iv)]. This approach is referred to as the actual-to-potential methodology. This regulatory provision may be overcome – and NSR will not apply – if the source owner agrees, in a federally-enforceable instrument – not to increase its actual emissions above baseline level [see e.g., 40 CFR 52.21(b)(4)].

Section 203.100 - Effective Dates (Transition)

Proposed Revisions to Sections 203.100

While the Illinois EPA prefers the language that it previously tendered to the Board, the Illinois EPA will require additional time for further consultation with the USEPA over the substance of IERG's proposed 35 Ill. Adm. Code 203.100. After further consultation with the Illinois EPA's federal counterpart, the Illinois EPA will seek leave of the Board to more fully comment on IERG's proposed 35 Ill. Adm. Code 203.100.

Section 203.1340 – Regulated NSR Pollutant

The additional discussion of 35 Ill. Adm. Code 203.1340(c) by IERG in IERG's Second Comment has prompted the Illinois EPA to further analyze the potential consequences of IERG's proposed approach to VOM (or volatile organic compounds) and ammonia as precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area. As an initial matter, the Illinois EPA does not oppose proposed 35 Ill. Adm. Code 203.1340(c)(3) as this provision includes language from 40 CFR 51.165(a)(1)(xxxvii)(C)(*2*) that provides that VOM (or volatile organic compounds) and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.[11] This is an element of the

[11] 40 CFR 50.165(a)(1)(xxxvii)(C)(*2*) provides that:

blueprint rule. This language must be included in revised Part 203, if the revised rule is approvable by USEPA, because this language is in the blueprint rule.

However, the Illinois EPA opposes the language in proposed 35 Ill. Adm. Code 203.1340(c)(3) that IERG purports would provide a transition period for VOM and ammonia in areas in Illinois that would be designated nonattainment for $PM_{2.5}$ in the future before these pollutants would be considered precursors to $PM_{2.5}$. Most critically, the blueprint rule does not provide for any such transition period. While the Emission Offset Interpretative Ruling, 40 CFR 51 Appendix S, provides for such a transition period in paragraph II.A.31.ii.b.4, this does not mean that a similar transition period is appropriate in state NA NSR rules that, like revised Part 203, are intended to be SIP-approved. IERG acknowledges that 35 Ill. Adm. Code 203.1340(c)(3), as proposed, would not be approvable by USEPA. Indeed, as discussed elsewhere in these comments, 35 Ill. Adm. Code 203.100(c), as proposed by IERG, would provide that 35 Ill. Adm. Code 203.1340(c)(3) need not be approved by USEPA for the revision to 35 Ill. Adm. Code Part 203 to become effective. The Illinois EPA generally opposes any revisions to Part 203 that would endanger full SIP-approval of the revisions to Part 203 by USEPA

It is also appropriate to review the actions that USEPA might take if 35 Ill. Adm. Code 203.1340(c)(3) were adopted by the Board in the form originally proposed by IERG. IERG appears to argue that a transition period would be provided by means of this provision. However,

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Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

Proposed 35 Ill. Adm. Code 203.1340(c)(2) would address sulfur dioxide and nitrogen oxides, providing that they are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area. Proposed 35 Ill. Adm. Code 203.1340(c)(3) addresses VOM and ammonia as they are precursors to $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas. However, IERG would not have proposed Section 203.1340(c)(3) be included in any SIP submittal to USEPA.

since 35 Ill. Adm. Code 203.1340(c)(3) would not be approved by USEPA, no such transition period would be provided under Illinois NA NSR SIP. Moreover, if USEPA elected to disapprove revised Part 203 in its entirety as applied to future $PM_{2.5}$ nonattainment areas, there would not be a transition period for VOM and ammonia under the NA NSR SIP and other revisions to Part 203 addressing NA NSR in $PM_{2.5}$ nonattainment areas would not take effect under either the SIP or state rule.[12] In either case, how would NA NSR apply to emissions of VOM and ammonia in a future $PM_{2.5}$ nonattainment area? As emissions of these pollutants would not be addressed by the portion of Part 203 that would be SIP approved, NA NSR for emissions of these pollutants would necessarily be governed by the provisions of 40 CFR 51 Appendix S. Considered in this light, it would appear that the effect of 35 Ill. Adm. Code 203.1340(c)(3) as now proposed by IERG would be to ensure that revised Part 203 is not fully approved by USEPA so that the provisions of Appendix S would apply for emissions of VOM and ammonia in any future $PM_{2.5}$ nonattainment areas.[13] In this regard, contrary to what IERG claims in its response, for a future $PM_{2.5}$ nonattainment area, stationary sources, the Illinois EPA and other parties would need to look at Part 203 for emissions of $PM_{2.5}$, NOx and SO_2 and Appendix S for emissions of VOM and ammonia.

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[12] It is conceivable that USEPA could also elect to disapprove revised Part 203 in its entirety. In this regard, in support of its proposal, IERG presumes that USEPA will take a specific course of action in response to the presence in revised Part 203 of proposed 35 Ill. Adm. Code 203.1340(c)(3), a provision, that on its face would not be approvable by USEPA. That is, IERG presumes that USEPA would approve revised Part 203 with the exception of this unapprovable provision. However, USEPA could also find that the effect of this provision on the approvability of revised Part 203 extends beyond this provision.

[13] It is noteworthy that IERG does not propose provisions by which Part 203 would be able to be approved by USEPA as applied to emissions of VOM and ammonia in future $PM_{2.5}$ nonattainment areas. That is, as 35 Ill. Adm. Code 203.1340(c)(3), as proposed, would not be approved by USEPA, Part 203 would not provide that VOM and ammonia are regulated NSR pollutants in $PM_{2.5}$ nonattainment areas. Accordingly, for purposes of NA NSR for $PM_{2.5}$, emissions of VOM and ammonia would continue to be governed by Appendix S even after the conclusion of any transition period.

IERG also argues that the relevant provision in 40 CFR Appendix S that deal with VOM and ammonia in future $PM_{2.5}$ nonattainment areas, as are included in proposed 35 Ill. Adm. Code 203.1340(c)(3), provide for an orderly transition period. Upon review of the actual language of these provisions, it is apparent that this is not the case. This provision would provide that VOM and ammonia would not be considered precursors to $PM_{2.5}$ in a newly designated $PM_{2.5}$ nonattainment area if certain future actions occur within 24 months of designation of the area as nonattainment.[14] Appendix S does not require that these actions, i.e., the timely submittal to USEPA of a state's NA NSR program for the area and an appropriately completed NA NSR precursor demonstration, occur. IERG erroneously assumes that these actions would occur within 24 months, until these actions would actually occur, stationary sources in the area cannot be assured that those actions will occur. As such, until the specified actions actually occur, it would be advisable for sources to proceed as if both VOM and ammonia are regulated as precursors to $PM_{2.5}$ for purposes of NA NSR in a newly designated $PM_{2.5}$ nonattainment area. Moreover, for such purpose, sources would not be able to rely on a significant emission rate for

[14] The situation for VOM and ammonia would be different if Appendix S simply provided that these pollutants would be regulated as precursors to $PM_{2.5}$ beginning 24 months after the designation of an area as nonattainment for $PM_{2.5}$ unless certain submittals were made before the end of the 24-month period, with the further proviso that the 24-month period would be extended until USEPA took final action on any such submittals.

ammonia as it is a precursor to $PM_{2.5}$ because Appendix S, paragraph II.A.10.i does not provide such a rate.[15,16]

It is also appropriate to consider whether it is reasonable to expect that the specified actions for the creation of the transition period could be completed in 24 months to enable the requisite submittals to be made to USEPA in a timely manner. In this regard, the optional precursor demonstration for NA NSR that may be submitted to USEPA is addressed by 40 CFR 51.1006(a)(3), which is as follows:

> (i) A NNSR precursor demonstration must evaluate the sensitivity of $PM_{2.5}$ levels in the nonattainment area to an increase in emissions of a particular precursor in order to determine whether the resulting air quality changes are significant. If the estimated air quality changes determined in the sensitivity analysis are not significant, based on the facts and circumstances of the area, the state may use that information to identify new major stationary sources and major modifications of a precursor that will not be considered to contribute significantly to $PM_{2.5}$ levels that exceed the standard in the nonattainment area.

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[15] As related to a significant emission rate for ammonia, paragraph II.A.10.vi of Appendix S provides:

> In any nonattainment area for $PM_{2.5}$ in which a state must regulate Ammonia as a regulated NSR pollutant (as a $PM_{2.5}$ precursor) as defined in paragraph II.A.31 of this Ruling, the reviewing authority shall define "significant" for Ammonia for that area and establish a record to document its supporting basis. All sources with modification projects with increases in Ammonia emissions that are not subject to Section IV of this Ruling must maintain records of the non-applicability of Section IV that reference the definition of "significant" for Ammonia that is established by the reviewing authority in the nonattainment area where the source is located.

This process for handling the significant emission rate for ammonia is separate and potentially inconsistent with the process provided for by paragraph II.A.31.ii.b.4 of Appendix S. For example, paragraph II.A.10.vi does not provide for USEPA approval of the significant emission rate that is being used for ammonia. Incidentally, this provision also does not address the circumstance in Illinois where the permitting authority (the Illinois EPA) and the entity that has the authority to adopt NSR rules (the Board) are not the same.

[16] The situation of a source in a new $PM_{2.5}$ nonattainment area with a proposed "major" project for VOM or ammonia would be especially challenging. Arguably, it would not be appropriate for the Illinois EPA to issue a construction permit for the proposed project that would address the substantive requirements of Appendix S, e.g., Lowest Achievable Emission Rate and emission offsets, until it was known whether there would or would not be a transition period for VOM or ammonia. This is because 35 Ill. Adm. Code 203.1340(c)(3), as applicable under state law, would suggest that these pollutants were not regulated pollutants. If the Illinois EPA were to proceed as if they were regulated, in this instance, would be contrary to state law.

(ii) If a NNSR precursor demonstration for a particular $PM_{2.5}$ nonattainment area is approved, the state may exempt such new major stationary sources or major modifications of the particular precursor from the requirements for $PM_{2.5}$ in §51.165.

What is noteworthy is that a precursor demonstration must identify "...major modifications of a precursor that will not be considered to contribute significantly to $PM_{2.5}$ levels that exceed the standard in the nonattainment." In other words, 40 CFR 51.1006(a)(3) requires that any such demonstration include an assessment and determination of an appropriate significant emission rate for the precursor. Unless the demonstration fortuitously confirms the appropriateness of significant emission rates for VOM and ammonia that are equal to or higher than the rate in proposed 35 Ill. Adm. Code 203.1370, a Board rulemaking would be needed to revise Part 203 to set lower area-specific significant emission rate(s) for the new $PM_{2.5}$ nonattainment area. If lower significant emission rate(s) are found to be appropriate, if the actions specified by Appendix S were attempted, it would be impossible for them to be completed within 24 months absent extraordinary efforts by the Illinois EPA and the Board.

Accordingly, the Illinois EPA proposes that Section 203.1340(c)(3) would more closely follow the blueprint at 40 CFR 51.165(a)(1)(xxxvii)(C) and read as follows:

Section 203.1340 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

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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 NOx are precursors to ozone in all ozone nonattainment areas.

2) SO_2 and NOx, 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) VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

During the Illinois EPA's most-recent review of IERG's proposed Section 203.1340(c)(3), the Illinois EPA reviewed the reference to this provision in proposed Section 203.1450, Control of Ozone, PM_{10}, and $PM_{2.5}$. Further review revealed that the Illinois EPA's statement in footnote 19 of the Illinois EPA's Comments was not accurate. *See,* Illinois EPA's Comments at page 16, footnote 19. Based on the language as proposed by the Illinois EPA, the reference to Section 203.1340(c)(3)(A) in proposed Section 203.1450 would not be appropriate. In lieu of this reference, the Illinois EPA proposes that Section 203.1450 would read as follows:

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

a) 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 203.1810 - Emission Offsets

Section 203.1810(g)(3)

While IERG offers a brief discussion of its rationale for not including the exact language in Section 173(c)(2) of the Clean Air Act in Section 203.1810(g)(3), absent a stronger rationale or specific statements by USEPA supporting the omission of the subject language, the Illinois EPA does not support deviating from the statutory language of the CAA. Nor has IERG offered any citation or authority supporting its approach to deviate from the language of Section 173(c)(2). It is appropriate for this language to be included in revised Part 203 because this

language is in the Clean Air Act and is also consistent with SIPs historically approved by USEPA. *See,* 35 Ill. Adm. Code 203.303(f); *see also*, Wis. Admin. Code NR § 408.06(9).

Section 203.1810(h)

Finally, the Illinois EPA opposes provisions in revised Part 203 that would, on their face, allow for interprecursor trading (IPT) for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors as contemplated by 40 CFR 51.165(a)(11). While 40 CFR 51.165(a)(11) provides for the submittal of a plan that may authorize the offset requirements for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors be satisfied by IPT, the blueprint clearly does not require the inclusion of IPT in any SIP submittal to USEPA. The blueprint clearly provides as follows:

> The plan shall require that, in meeting the emissions offset requirements of paragraph (a)(3) of this section, the emissions offsets obtained shall be for the same regulated NSR pollutant, unless interprecursor offsetting is permitted for a particular pollutant as specified in this paragraph. The plan may allow the offset requirements in paragraph (a)(3) of this section for direct $PM_{2.5}$ emissions or emissions of precursors of $PM_{2.5}$ to be satisfied by offsetting reductions in direct $PM_{2.5}$ emissions or emissions of any $PM_{2.5}$ precursor identified under paragraph (a)(1)(xxxvii)(C) of this section if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.

40 CFR 51.165(a)(11) (emphasis added). While the federal NA NSR rule does allow the offset requirements for emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors to be satisfied by IPT, the rule does not mandate inclusion of IPT in a SIP. Rather, 40 CFR 51.165(a)(11) merely authorizes plans to allow for the potential use of IPT.

In January 2021, the U.S. Court of Appeals for the D.C. Circuit vacated a portion of 40 CFR 51.165 authorizing the use of IPT for ozone. *Sierra Club, et al. v. Environmental Protection Agency,* 985 F.3d 1055 (D.C. Cir. 2021). As previously discussed in the Illinois EPA's Comments, a closer reading of the D.C. Circuit's 2021 decision suggests that this court would not find authority for IPT for $PM_{2.5}$ under the Clean Air Act if this question were ever before it. *See*, Illinois EPA's Comments at pages 31 - 35. For sake of brevity, the Illinois EPA

will not repeat every aspect of its earlier discussion of this decision but would request that the Board make note of the Illinois EPA's prior filing. Recent statements made in IERG's Second Comment do not persuade the Illinois EPA that its interpretation of this decision was in error.

While authority for IPT for $PM_{2.5}$ remains in the blueprint, the Illinois EPA does not believe it is prudent to include such authority in Part 203 given those statements made by the D.C. Circuit in its January 2021 decision. The court's discussion of the general offset provision in Section 173(c) would apply to $PM_{2.5}$ given a more specific offset provision does not exist for $PM_{2.5}$. Part D, Subpart 4, exists for particulate matter in nonattainment areas, but Subpart 4 does not contain any requirements specific to offsets. Given this, the general provisions in Part D, Subpart 1, are the only applicable offset requirements for particulate matter. As acknowledged by IERG in its Second Comments,[17] the D.C. Circuit briefly considered and discussed the discretionary provisions in Part D, Subpart 1, specifically the following language of Section 173(c)(1):

> The owner or operator of a new or modified major stationary source may comply with an offset requirement in effect under this part for increased *emissions* of *any air pollutant* only by obtaining emission reductions of *such air pollutant* from the same source or other sources in the same nonattainment area . . . .

42 USC 7503(c)(1) (*emphasis added*). In addition, the CAA provides the following definition of "air pollutant" in Section 302(g):

> Includes any precursors to the formation of any air pollutant, to the extent [EPA] has identified *such* precursor or precursors for the particular purpose for which the term 'air pollutant' is used.

42 USC § 7602(g) (*emphasis added*). In the case before the D.C. Circuit, USEPA argued that these provisions, together, gave it "broad discretion to define 'air pollutant' for the purposes of

[17] *See also,* IERG's Second Comments at page 22.

offsets" and, that ozone, not VOCs or NOx, was the 'air pollutant' that should govern the nature of the emission offsets required in areas that were nonattainment for ozone. *Sierra Club, et al. v. Environmental Protection Agency,* 985 F.3d 1055, 1061 (D.C. Cir. 2021). However, the D.C. Circuit disagreed finding that this argument ignored that Section 173(c)(1) related to emission reductions of "such air pollutant." *Id.* Of significance to the court was that ozone is not directly emitted into the air but rather is formed due to the chemical interaction of the sun and its precursors, volatile organic compounds and NOx. The court concluded that "[g]iven that there are no emissions of ozone in the same way that there are emissions of VOCs or NOx, it makes no sense to read those provisions as referring to ozone." *Id.*

IERG sought to distinguish the rationale of this decision from $PM_{2.5}$, stating as follows:

> The D.C. Circuit's consideration of this provision was solely for the purpose of noting that ozone is not directly emitted from stationary sources. This is not true of $PM_{2.5}$, which is directly emitted from stationary sources.

IERG's Second Comments at page 22.

While $PM_{2.5}$ differs from ozone in that it can be directly emitted into the atmosphere, $PM_{2.5}$ is similar to ozone in that $PM_{2.5}$ is also formed in the atmosphere. As previously explained by the Illinois EPA in the Illinois EPA's Comments, $PM_{2.5}$ can be emitted directly into the atmosphere ("primary $PM_{2.5}$" or "direct $PM_{2.5}$") but $PM_{2.5}$ can also form in the atmosphere from emissions of precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds and ammonia as they react in the atmosphere to become $PM_{2.5}$ ("secondary $PM_{2.5}$"). *See,* USEPA, *Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter* (EPA-452/R-12-005, December 2012), p. 2-1.

Given this same circumstance is present for secondary $PM_{2.5}$ as for ozone, i.e., that secondary $PM_{2.5}$ is formed due to chemical reactions involving other pollutants, the portion of

the D.C. Circuit decision interpreting "emissions" of "such air pollutant" is transferrable to secondary $PM_{2.5}$. Just as this language in Section 173(c)(1) of the Clean Air Act does not support interpreting "emissions" of "such air pollutant" to refer collectively to emissions of ozone, volatile organic compounds and NOx, it similarly does not support interpreting "emissions" of "such air pollutant," to refer collectively to emissions of direct $PM_{2.5}$, nitrogen oxides, sulfur oxides, volatile organic compounds and ammonia.

Accordingly, the decision of the D.C. Circuit is transferable to secondary $PM_{2.5}$ as it finds that Section 173(c)(1) of the CAA does not authorize the use of interprecursor trading. As such, the Illinois EPA opposes revisions to Part 203 that would allow for the use of IPT for emission offsets for $PM_{2.5}$ as proposed by Section 203.1810(h). The Illinois EPA requests that this section not be included in the revised rules. The Illinois EPA understands its proposal forecloses the option of IPT currently authorized on the face of the blueprint at 40 CFR 51.165. However, there is nothing foreclosing the Board from adopting elements of a NA NSR program that are more stringent than those contained in the blueprint. *See,* Section 9.1(c) of the Act ("The Board shall 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). In many instances, existing Part 203 is more stringent than the minimum requirements in the blueprint for a SIP submittal to USEPA. As discussed by the Illinois EPA in previously filed comments with the Board, existing Part 203 has yet to memorialize 2002 NSR Reform or 2020 Project Emissions Accounting – either of which would potentially decrease the number of construction projects at existing major sources that would meet the definition of a major modification and thereby trigger the applicable requirements of

NA NSR. Rather, implementation of more stringent rules, in this instance – existing Part 203, has been recognized by USEPA as satisfying the requirements of the CAA and 40 CFR 51.165.

Subpart Q – Plantwide Applicability Limits
Section 203.2280 – Significant Emissions Unit
Section 203.2290 – Small Emissions Unit
Section 203.2330 – Setting the 10-Year Actuals PAL Level

In the Illinois EPA's Comments, the Illinois EPA noted that in each of these proposed provisions for Plantwide Applicability Limits (PALs), reference had been made to "the significant level" or "the significant level for that PAL pollutant" as defined in proposed Section 203.1370. *See*, Illinois EPA's Comments, pages 35 -36. The Illinois EPA went on to observe that this differed from the blueprint (and similar provisions in 35 Ill. Adm. Code Part 204). Notably, the blueprint also includes the phrase "or in the [Clean Air] Act, whichever is lower." In its Comments, the Illinois EPA indicated that justification and support from IERG would be necessary for the omission of this phrase for the Illinois EPA's SIP submittal to USEPA. Id. In IERG's response, IERG observed it included an explanation for this deviation from the blueprint on page 14, footnote 13 of its Technical Support Document (TSD). IERG's Second Comment at page 23. In the TSD, IERG stated that:

> The reference to the CAA is immaterial, as no significant levels are defined or otherwise established in the CAA. To improve clarity, this reference is omitted from the proposed revisions to Part 203.

The Illinois EPA overlooked this footnote when making its initial comment on this provision. After review, the Illinois EPA opposes this proposed deviation from the blueprint. If the Clean Air Act (or USEPA's implementing regulations) are revised to establish significant levels in the future, the exclusion of this phrase from Part 203 could result in a scenario where Part 203 is less stringent than the blueprint, e.g., there are significant levels in the CAA that are

more stringent than those under the state SIP.[18] Absent a stronger rationale or specific statements by USEPA supporting the omission of the subject phrase from a state's SIP, the Illinois EPA does not support deviating from the blueprint language. Nor has IERG offered any citation or authority supporting any such deviation from the blueprint.

Clarification to IERG's TSD

While this was considered to be a minor point, which warranted only a brief explanation by the Illinois EPA, the explanation in the Illinois EPA's Comments of what happens when a permitting authority establishes new emission limits following the expiration of a PAL permit was accurate. *See*, Illinois EPA's Comments, page 37. Again, IERG stated in its TSD that "[I]f a PAL permit expires, the permitting authority must establish *new emission caps or other emission limits* for all emissions units at the source . . ." TSD, page 16, footnote 17 (*emphasis added*). However, as the Illinois EPA previously explained:

> . . . 40 CFR 51.165(f)(9)(i) provides that the source shall comply with existing emission limits but does not discuss the establishment of new emission caps by the permitting authority. The blueprint indicates that the source is to comply with the equivalence of the emission cap that existed in the now-expired PAL permit until the permitting authority issues a revised permit establishing new emission limits.

Illinois EPA's Comments, page 37. IERG asserts that its description of this provision is accurate, requires no clarification and that the Illinois EPA's assertion is incorrect. IERG's Second Comment at page 24. However, the blueprint (and similarly proposed 35 Ill. Adm Code 203.2360) supports the Illinois EPA's clarification, providing as follows:

> (9) *Expiration of a PAL.* Any PAL which is not renewed in accordance with the procedures in paragraph (f)(10) of this section shall expire at the end of the PAL

[18] While no significance levels have been established by the Clean Air Act, it is not clear if the reference to the Clean Air Act merely refers to the Clean Air Act or necessarily includes any regulations promulgated pursuant to the Clean Air Act.

effective period, and the requirements in paragraphs (f)(9)(i) through (v) of this section shall apply.

(i) 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 paragraphs (f)(9)(i)(A) through (B) of this section.

(A) Within the time frame specified for PAL renewals in paragraph (f)(10)(ii) of this section, 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 reviewing authority) 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 paragraph (f)(10)(v) of this section, such distribution shall be made as if the PAL had been adjusted.

(B) The reviewing authority 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 reviewing authority determines is appropriate.

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(iii) Until the reviewing authority issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (f)(9)(i)(A) of this section, the source shall continue to comply with a source-wide, *multi-unit emissions cap equivalent to the level of the PAL emission limitation.*

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(*Emphasis added*). The language of the blueprint is clear – it does not require the establishment of emission caps by the permitting authority upon expiration of a PAL. Rather, the blueprint provides that following expiration of the PAL, the permitting authority will establish new limits on allowable emissions for individual emissions units or groups of emissions units. The only use of the term "emission cap" in the blueprint is in 40 CFR 51.165(f)(9)(iii), the provision

addressing what happens in the period between the expiration of a PAL permit and the issuance of a revised permit by the permitting authority. Until a revised permit is issued, the source shall comply with a source-wide multi-unit emissions cap equivalent to the level of the PAL emission limitation. While this is a minor point, the Illinois EPA's comment on the TSD was appropriate given the absence of the term "emission cap" in the provision of the blueprint that was being addressed.[19]

Section 203.2530 – Construction Permit

As addressed by IERG in footnote 8 of IERG's Second Comment, the Illinois EPA should have been clearer in its discussion of the types of permits that could be required for a new major stationary source or major modification in an attainment or unclassifiable area which would cause or contribute to a NAAQS violation.[20] Such source would necessarily require a PSD permit under Part 204 and proposed Part 203, Subpart R. In addition, if this new major stationary source or major modification would be located in a nonattainment area for a particular criteria pollutant and, if this source would be significant for this same criteria pollutant, the new major stationary source or major modification would need an NA NSR permit under Part 203 as well. If this new major stationary source or major modification would not be located in a nonattainment area for any criteria pollutant, this source would not require an NA NSR permit under Part 203.

[19] It is noteworthy that the term "emissions cap" is not defined for purposes of New Source Review. As such, the possible implication from use of the term "emissions cap" in the TSD, as compared to the terms in 40 CFR 511.165(f)(i), if any, is not known. For example, in the context of air pollution control, the term "cap" is commonly used when describing emission trading programs as those programs are referred to as "cap-and-trade programs."

[20] The Illinois EPA offered an additional discussion of those instances where a proposed new major stationary source or major modification could be subject to both the NA NSR program and PSD program but would not be subject to Subpart R in the Illinois EPA's Comments, page 38, footnote 46.

Proposed Revisions to Part 203 and Part 204

The Illinois EPA has thoroughly reviewed IERG's regulatory proposal including all subsequent filings made by IERG. In the course of the Illinois EPA's review and participation in this proceeding, the Illinois EPA has had a number of discussions with the Illinois EPA's federal counterpart, USEPA, over the substance of IERG's proposal. These discussions have shaped the Illinois EPA's filings in this proceeding.

In conjunction with this filing and, to further aid the Board and the public, the Illinois EPA is attaching two redlined documents, Exhibits A and B. Exhibit A offers a redline of Part 203, excluding proposed 203.100, to identify those revisions to existing Part 203 that would be acceptable to the Illinois EPA.[21] Similarly, Exhibit B provides a redline to clearly identify those revisions to existing Part 204 that would be acceptable to the Illinois EPA.[22] These redlines have been shared with the USEPA. While these redlines were not offered as SIP submittals to USEPA, these documents were shared with the USEPA to facilitate its review of potential revisions to the Illinois' SIP. USEPA did not provide any comments or express any concerns on either Exhibit A or B to the Illinois EPA.

[21] In conjunction with this rulemaking proposal, IERG has also proposed revision to existing 35 Ill. Adm. Code Part 232, Toxic Air Contaminants. The Illinois EPA has no comment or concern regarding this proposed revision by IERG. For completeness in this submittal, the Illinois EPA would like to remind the Board that the Illinois EPA previously proposed revision to 35 Ill. Adm. Code Part 201, Permits and General Provisions, and Part 202, Alternative Control Strategies, in the Illinois EPA's Initial Comments and Recommendations for Additional Revisions, dated January 18, 2022. *See,* proposed revisions to 35 Ill. Adm. Code 201.169(a)(3), 201.175(g)(2)(A), (g)(2)(A)(ii), and (g)(2)(B)(iii) and 35 Ill. Adm. Code 202.306(d). The Illinois EPA renews its request that these revisions be made by the Board in conjunction with this regulatory package.

[22] Revisions acceptable to the Illinois EPA are shown in redline and as an addition to the redline previously proposed by IERG.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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EXHIBIT A

Electronic Filing: Received, Clerk's Office 08/16/2021 **R2022-017**

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 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

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

PLACEHOLDER

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 (2021)

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b) 40 CFR 52.21 (2021)

c) 40 CFR Part 51, Appendix S (2021)

d) 40 CFR Part 51, Appendix W (2021)

e) 40 CFR Part 60 (2021)

f) 40 CFR Part 61 (2021)

g) 40 CFR Part 62 (2021)

h) 40 CFR Part 63 (2021)

i) 40 CFR Part 81 (2021)

j) 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).

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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
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

Deleted: IPT Interprecursor Trading¶

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

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

1) 65 meters, measured from the ground-level elevation at the base of the stack;

2) The following:

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

B) For all other stacks:

$H_g = H + 1.5L$

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

3) 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.

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

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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 in an area classified as moderate nonattainment for CO, except as provided in subsection (a)(5)(B);

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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 or 40 CFR 52.21 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 under Section 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) VOM and ammonia are precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area.

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. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this Part.

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

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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 la… [1]

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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 40 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

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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 in Section 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.

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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.

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

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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) 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.

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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, quantifiable, and federally enforceable; and

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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 for purposes of any such offset requirement. Incidental 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.

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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.

Deleted: <#>For a new major stationary source or major modification located in an area designated nonattainment for PM2.5, IPT between precursors of PM2.5 identified in Section 203.1340, or between direct PM2.5 emissions and a precursor of PM2.5, shall be allowed to satisfy the applicable offset requirement if:¶
¶
Such IPT is based on an IPT ratio that will provide an equivalent or greater air quality benefit with respect to ambient concentrations of PM2.5 in the PM2.5 nonattainment area. At a minimum, one ton of emissions reductions shall be provided for one ton of emissions increases; and¶
¶
The permit application submitted by the owner or operator of the source or modification includes the following:¶
¶
A proposed IPT ratio, with accompanying calculations.¶
¶
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 PM2.5 in the PM2.5 nonattainment area; and¶
¶
A description of the model or models and analysis that were used to develop the proposed IPT ratio; and¶
¶
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 203.1830 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 or in the CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in Section 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 or in the CAA, whichever is lower.

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 or under the CAA, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24- month period must be subtracted from the PAL level. The 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.

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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 or parameters 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 or values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point or operating points; 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.

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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)(1)(A)(ii) or (iii) of the CAA (42 USC 7407(d)(1)(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

If the owner or operator of the proposed major stationary source or major modification does not fulfill the requirements of both subsections (a) and (b), the Agency must deny the proposed construction.

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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 Section 203.1410(c) and (e), Section 203.1420, Section 203.1430, Section 203.1440(a), Section 203.1460, and Section 203.1500.

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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, as applicable.

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EXHIBIT B

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

Section
204.1000 Stack Heights

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

Section
204.1100 Control Technology Review
204.1110 Source Impact Analysis
204.1120 Air Quality Models
204.1130 Air Quality Analysis
204.1140 Additional Impact Analyses

SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

Section
204.1200 Additional Requirements for Sources Impacting Federal Class I Areas

SUBPART H: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section
204.1300 Notification of Application Completeness to Applicants
204.1310 Transmittal of Application to USEPA
204.1320 Public Participation
204.1330 Issuance Within One Year of Submittal of Complete Application
204.1340 Permit Rescission

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

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

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section
204.1500 Innovative Control Technology

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section

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 204.290 Building, Structure, Facility, or Installation

a) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual (incorporated by reference in Section 204.100).

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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 204.330 Complete

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the reviewing authority from requesting or accepting any additional information.

Section 204.420 Good Engineering Practice

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

1) 65 meters, measured from the ground-level elevation at the base of the stack;

2) The following:

A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR 51 and 52 (incorporated by reference in Section 204.100):

$$H_g = 2.5H,$$

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

B) For all other stacks:

$$H_g = H + 1.5L$$

where:

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

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

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

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

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

Section 204.490 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 7425);

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

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

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.

Section 204.620 Replacement Unit

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

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

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

c) The replacement does not alter the basic design parameter 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 Btu 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) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency an alternative basic design parameter 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, 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)(1) and (c)(2).

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5) If design information is not available for a process unit, 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.

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 J: INNOVATIVE CONTROL TECHNOLOGY

Section 204.1500 Innovative Control Technology

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

b) The Agency shall, with the consent of the Governor(s) of other affected State(s), determine that the source or modification may employ a system of innovative control technology if:

1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 204.1100(b), by a date specified by the Agency. Such date shall not be later than 4 years after the time of startup or 7 years after permit issuance;

3) The source or modification would meet the requirements of Sections 204.1100 and 204.1110, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Agency;

4) The source or modification would not, before the date specified by the Agency:

A) Cause or contribute to a violation of an applicable NAAQS; or

B) Impact any area where an applicable increment is known to be violated;

5) All other applicable requirements, including those for public participation, have been met; and

6) The provisions of Section 204.1200 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

c) The Agency shall withdraw any approval to employ a system of innovative control technology made under this Section if:

1) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

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

3) The Agency decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period or the approval is withdrawn in accordance with subsection (c), the Agency may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control.

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1670 Lowest Achievable Emission Rate (LAER)

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

STATE OF ILLINOIS)
) **SS**
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following: I have electronically served the attached **ILLINOIS EPA'S SECOND SET OF ANSWERS, COMMENTS AND RECOMMENDATIONS FOR ADDITIONAL REVISIONS**, on September 12, 2022, to the following:

Don Brown – Clerk
Illinois Pollution Control Board
100 W. Randolph St, Suite 11-500
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Don.Brown@illinois.gov

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I have electronically served and deposited said document in the United States Mail, proper postage prepaid, in Springfield, and upon:

Renee Snow
General Counsel
Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271
renee.snow@illinois.gov

My e-mail address is sally.carter@illinois.gov.

The number of pages in the e-mail transmission is 108.

The e-mail transmission and depositing said document in the United States Mail took place before 5:00 p.m. on September 12, 2022.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Sally A. Carter

Sally Carter
Assistant Counsel
Division of Legal Counsel

Dated: September 12, 2022

1021 North Grand Avenue East
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217/782-5544

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