

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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In the Matter of:	)	
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	)	
AMENDMENTS TO 35 ILL. ADM. CODE	)	R23-018(A)
PARTS 201, 202, AND 212	)	(Rulemaking – Air)
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**NOTICE OF FILING**

To: Attached Service List

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Illinois Pollution Control Board **EAST DUBUQUE NITROGEN FERTILIZERS, LLC’S POST-HEARING COMMENT IN SUPPORT OF RULEMAKING PROPOSAL** and a **CERTIFICATE OF SERVICE**, which are attached and copies of which are herewith served upon you.

Dated: May 22, 2024

Respectfully submitted,

/s/ John M. Heyde  
East Dubuque Nitrogen Fertilizers, LLC  
By One of Its Attorneys

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**EAST DUBUQUE NITROGEN FERTILIZERS, LLC’S  
POST-HEARING COMMENT IN SUPPORT OF RULEMAKING PROPOSAL**

East Dubuque Nitrogen Fertilizers, LLC (“EDNF”) respectfully submits this post-hearing comment in support of its rulemaking proposal.

EDNF presented its proposal to allow the Board to complete its transition from 1970s rules that governed startups, malfunctions, and breakdowns (“SMB”) to a system of tailored alternative emission limits for industries in which the general emission limits applicable during normal operation are not appropriate for startup and shutdown situations. The production of weak nitric acid, which EDNF conducts at its facility in East Dubuque, Illinois, is one of those industries. Despite controls that more than meet the NOx and opacity limitations in 35 Ill. Adm. Code 217.381 during normal operation, EDNF’s processes do not meet these limits during startup or shutdown, times when the temperature in the control devices necessarily are too low for the controls to function. The U.S. Environmental Protection Agency (“U.S. EPA”) has long recognized this issue and tailored federal regulations to meet it. In Illinois, the 1970s SMB rules addressed this issue until their repeal last summer in Docket R 23-18.

EDNF's proposal would correct the current state of the rules, which allow it (or any hypothetical future weak acid plant) to operate at full production but do not allow it to shut down, even for maintenance, or once shut down, start up again. The Board has held three rulemaking hearings on several industry proposals in this sub-docket, including EDNF's proposal. EDNF has responded to all questions raised during the proceeding, and it has also provided all the additional information that the Illinois Environmental Protection Agency ("Illinois EPA") and the Illinois Attorney General's Office requested in their submissions to the sub-docket. The process has identified no concerns with EDNF's proposal, and Illinois EPA has stated that it has no objection to it. As a result, EDNF requests that the Board move forward expeditiously with a "second notice" proposal and then final adoption of a rule incorporating EDNF's proposal.

**I. THE REPEAL OF DECADES-OLD RULES ON STARTUP, MALFUNCTION, AND BREAKDOWN REQUIRES PROMPT ADOPTION OF ALTERNATIVE EMISSION LIMITS FOR INDUSTRIES THAT RELIED ON THE PRIOR RULES.**

EDNF submitted its rulemaking proposal following the Board's repeal of rules, in Docket R 23-18, that had governed startup, malfunction, and breakdown for more than 50 years. The Board had originally adopted these rules in its first regulations on criteria pollutants to become part of Illinois's State Implementation Plan ("SIP"). Opinion and Order, *In re Emission Standards*, R 71-23 (April 13, 1972). That rulemaking put in place both the emission limitations for weak nitric acid processes that exist today in 35 Ill. Adm. Code 217.381 and general provisions on startup, malfunction, and breakdown. Collectively, these rules allowed nitric acid facilities such as EDNF's facility in East Dubuque, Illinois to start up and shut down legally, while maintaining compliance with the numerical limits in Section 217.381 during normal operation.

The Board repealed the SMB rules to comply with a “SIP call” that the U.S. Environmental Protection Agency (“U.S. EPA”) had issued.<sup>1</sup> U.S. EPA had demanded that states remove affirmative defenses from emission standards that applied during periods of startup, shutdown, and malfunction. U.S. EPA, *State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction*, 80 Fed. Reg. 33,840 (June 12, 2015), attached to Exhibits to EDNF’s Proposal to Amend Section 217.381, R 23-18(A) (Aug. 7, 2023) as Exhibit 1. U.S. EPA simultaneously recognized that sources may need alternative standards for different operating scenarios, such that one standard might apply during normal operation and another during startup and shutdown. *Id.* at 33,858. The Board’s action in R 23-18 met EPA’s demand to remove affirmative defenses, and in the process, the Board opened this sub-docket to entertain proposals from regulated sources that require alternative emission standards during periods of startup, shutdown, or malfunction. Opinion and Order of the Board, R 23-18, at 22 (April 6, 2023). EDNF’s proposal falls squarely into this category.

## **II. WITHOUT AN ALTERNATIVE EMISSION STANDARD, WEAK NITRIC ACID PROCESSES IN ILLINOIS CANNOT LEGALLY SHUT DOWN OR START UP AGAIN.**

During periods of normal operation, weak nitric acid processes such as those operated by EDNF meet the NO<sub>x</sub> and opacity limitations in existing Section 217.381(a)(1) and (2).<sup>2</sup> Prefiled

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<sup>1</sup> Since the Board completed action in R 23-18, the U.S. Court of Appeals for the D.C. Circuit has issued an opinion overturning U.S. EPA’s SIP call. As explained at the third hearing, regardless of the fate of that SIP call, the Board’s action in R 23-18 will remain in effect. As a result, sources such as EDNF continue to require alternative emission limits during periods of startup and shutdown to operate legally in Illinois.

<sup>2</sup> To the best of EDNF’s knowledge, EDNF operates the only nitric acid processes in Illinois and, therefore, the only facility subject to Section 217.381. Prefiled Testimony of Philip G. Crnkovich, R 23-18(A), at 3 (Aug. 28, 2023) (“Crnkovich Testimony”).

Testimony of Philip G. Crnkovich, R 23-18(A), at 5 (Aug. 28, 2023) (“Crnkovich Testimony”).

However, because the longstanding SMB rules have been repealed but alternative emission standards do not yet exist, nitric acid plants in Illinois cannot shut down in compliance with existing Section 217.381, and if they do shut down, they cannot be restarted.

As EDNF has explained in its testimony, its nitric acid processes rely on selective catalytic reduction (“SCR”) devices for control. Crnkovich Testimony at 2. While SCRs are very effective at limiting NO<sub>x</sub> emissions, it takes time during startup for the temperature in the SCR to reach the level at which it can control NO<sub>x</sub> effectively. *Id.* at 4. A similar situation exists during shutdowns. *Id.* During these time periods, NO<sub>x</sub> emissions exceed the levels in existing Section 217.381(a)(1), and the opacity from the NO<sub>x</sub> emissions exceeds the limitation in existing Section 217.381(a)(2). *Id.*; EDNF Supplemental Response to Illinois EPA’s Comment, R 23-18(A), at 6-7 (March 15, 2023) (“EDNF Supp. Response”).

U.S. EPA, in issuing new source performance standards (“NSPSs”) for this source category, consistently has recognized that different conditions apply during startup and shutdown. U.S. EPA’s first NSPS – which continues to apply to the Nitric Acid Processes (Crnkovich Testimony at 9) – is subject to the general NSPS provisions of 40 C.F.R. Part 60 Subpart A. Subpart A provides that opacity standards do not apply during startup, shutdown, or malfunction, 40 C.F.R. § 60.11(c), and they also provide that emissions above an applicable limit during startup, shutdown, and malfunction are not violations. 40 C.F.R. § 60.8(c). The newer NSPS (which does not apply to the Nitric Acid Processes) apply “at all times,” but they address startup and shutdown by applying a 30-operating-day averaging time for NO<sub>x</sub> emissions and removing any opacity limitation on nitric acid processes altogether. 40 C.F.R. § 60.72a.

Unlike the NSPS provisions, the Illinois rules currently are in a transitional state, with the SMB rules removed but without alternative emission limits that apply to startup and shutdown. That creates an unintended situation in which nitric acid plants in Illinois may legally operate normally, but cannot shut down in compliance with existing Section 217.381, and if they do shut down, they cannot be restarted. ENDF's proposal is designed to correct this situation.

**III. ENDF'S PROPOSAL IS A PROTECTIVE ALTERNATIVE EMISSION LIMIT THAT, IF ADOPTED, IS LIKELY TO BE APPROVED AS PART OF ILLINOIS' SIP.**

ENDF's proposal allows nitric acid plants to comply with a single NO<sub>x</sub> standard that would apply at all times. This single standard is set at half the existing standard – 1.5 pounds of NO<sub>x</sub> per ton of production, instead of the existing 3.0 pounds – and it would apply during both normal operation and startups and shutdowns. Proposed Section 217.381(a)(1), attached as **Exhibit 1**. However, unlike the existing standard, it would be subject to an appropriate averaging period, thus requiring that any facility balance emissions above the standard during startups or shutdowns with emissions below the standard at other times. *Id.* This proposed NO<sub>x</sub> standard, therefore, is more stringent than the existing rules.

Moreover, even though U.S. EPA has eliminated an opacity standard for nitric acid plants, and even though opacity in nitric acid plants is due to the NO<sub>x</sub> itself, rather than particulate matter emissions, ENDF's proposal would keep an opacity limitation in place. Under the proposal, the existing 5 percent opacity limit would remain in place during normal operations. Proposed Section 217.381(a)(2). During startup and shutdown, opacity would be subject to an alternative, work practice standard. Proposed Section 217.381(a)(3).

EDNF's proposal is consistent with U.S. EPA's guidance on alternative emission limitations, which it gave in connection with its SIP call.<sup>3</sup> U.S. EPA's guidance emphasized that a state may "develop special, alternative emission limitations that apply during startup or shutdown if the source cannot meet the otherwise applicable emission limitation in the SIP." 80 Fed. Reg. at 33,980. The NO<sub>x</sub> limitation in proposed Section 217.381(a)(1) is a numeric limitation that applies during startup and shutdown. In fact, because under EDNF's proposal, the same numeric standard applies during startup and shutdown *and* during normal operation, the proposed NO<sub>x</sub> limitation is not even an "alternative" emission limit. It is a single emission limit that applies at all times, is more stringent than the existing limit, and is consistent with concepts from U.S. EPA's NSPSs for nitric acid production.

The proposed opacity provisions – which *are* alternative emission limits – comply with the seven criteria that U.S. EPA's guidance suggests for consideration. *See* 80 Fed. Reg. at 33,980. EDNF's proposal is limited to a "specific, narrowly defined" source category. *See id.* Use of the control strategy applicable to normal operations is technically infeasible during startup and shutdown. EDNF's proposal requires that operation in startup and shutdown mode be minimized to the extent practicable. EDNF has provided information to Illinois EPA on "worst-case emissions" during startup and shutdown. *See id.* EDNF's proposal requires that all possible steps are taken to minimize any impact from emissions during startup and shutdown. EDNF's proposal requires that the facility be operated "consistent with good practice for minimizing emissions." *See id.* Finally, EDNF's proposal requires that operations during startup and shutdown are "documented by properly signed, contemporaneous operating logs." *See id.*

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<sup>3</sup> EDNF is not aware of any U.S. EPA statement on whether its guidance may change following the D.C. Circuit's decision in *Environmental Cmte. of the Fla. Elec. Power Coordinating Group, Inc. v. EPA*, 94 F.4th 77 (D.C. Cir. 2024), but since EDNF's proposal is consistent with U.S. EPA's existing guidance, it clearly will remain so even if U.S. EPA loosens or even eliminates its requirement for alternative emission limitations.

Because EDNF's proposal meets these seven criteria, if the Board adopts the proposal, it is likely that U.S. EPA will approve the proposal for the Illinois SIP.

Indeed U.S. EPA has already approved an approach for nitric acid plants in Florida that is similar to EDNF's proposal. U.S. EPA approved, as a revision to the Florida SIP, two permits for nitric acid plants that replaced a previous 3.0 pound-per-ton NO<sub>x</sub> limit with a 2.6 pound-per-ton limit averaged over 30 days. EDNF First Post-Hearing Comment, R 23-18(A), at 7 (Oct. 26, 2023). In giving this approval, U.S. EPA concluded that the lower numerical limit, even with an averaging period, was "developed . . . in an appropriate way to ensure that the SIP is not relaxed and that increased emissions will not occur . . . ." U.S. EPA, *Air Plan Approval; Florida; Revision of Excess Emissions Provisions and Emission Standards; Amendments to Stationary Sources – Emission Standards*, 88 Fed. Reg. 51,702, 51,705 (Aug. 4, 2023), attached as Exhibit 3 to EDNF First Post-Hearing Comment. Likewise, EDNF's proposal for a lower numerical limit with an averaging period will also not "relax" the SIP. Indeed, EDNF's proposal is significantly more stringent than the Florida approach, as it cuts the numerical limit in half while the Florida approach reduced the limit by only 13 percent. The upshot is that EDNF's proposal is environmentally protective, more stringent than the existing rule, and consistent with U.S. EPA's guidance issued in connection with the SIP call.

#### **IV. THE RULEMAKING PROCESS HAS UNCOVERED NO ISSUES WITH OR SUBSTANTIVE CHANGES TO EDNF'S PROPOSAL.**

The rulemaking process in this case has included three public hearings, each with opportunities for pre-hearing testimony and questions, requests for information, and responses to those requests. EDNF has answered all questions posed to it during this process and provided the information that other participants – most notably Illinois EPA – requested. No party has



indicated that it has unanswered questions, and Illinois EPA has stated that it has no objection to Illinois EPA's proposal.

***A. EDNF Has Provided All Requested Information and Responded to All Questions.***

The Board responded to EDNF's proposal and the other proposals it received in this sub-docket with an opinion and order combining the proposals, accepting them for hearing, and issuing them for "first notice" public comment without commenting on the merits. Opinion and Order of the Board, R 23-18(A) (Aug. 17, 2024.) The Board held the first of two required public hearings on September 27, 2024. EDNF submitted the pre-filed testimony of its witness Philip G. Crnkovich on August 28, 2023 and presented Mr. Crnkovich as a witness during the September 27 hearing, during which he responded to pre-filed questions from the Attorney General's office and the Board. Crnkovich Testimony; Transcript of First Hearing at 78-92. EDNF followed the hearing with a "first post-hearing comment," in which it responded to questions that participants had asked during the hearing. EDNF First Post-Hearing Comment, R 23-18(A) (Oct. 26, 2023).

On October 23, 2023, Illinois EPA submitted comments on the combined set of proposals; the comments requested information from each of the petitioners, including EDNF. Illinois Environmental Protection Agency's Comments, R 23-18(A) (Oct. 23, 2023.) The Board held its second required public hearing on November 1, 2023, during which the Hearing Officer requested timeframes by which the rule proponents would respond to Illinois EPA's information requests. Transcript of Second Hearing, R 23-18(A), at 11 (Nov. 1, 2023). EDNF provided an initial response on December 1, 2023, which described the status of collecting the information that Illinois EPA had requested. EDNF Initial Response to Illinois EPA's Comment, R 23-18(A) (Dec. 1, 2023). EDNF then responded fully to Illinois EPA's requests in January 2024 and

summarized the information it had provided in a March 15, 2024 filing in this sub-docket. EDNF Supp. Response.

The Board held a third public hearing on the combined set of proposals on April 15, 2024. In advance of that hearing, the Attorney General's office pre-filed two final questions for EDNF, Illinois Attorney General's Questions for Participants at Third Hearing, R 23-18(A), at 2-3 (April 8, 2024), and EDNF responded to those questions in advance of the hearing. EDNF Supplemental Comment in Response to Pre-Filed Questions, R 23-18(A) (April 12, 2024). During the hearing, no participant raised any further questions for EDNF. Transcript of Third Hearing, PCB 23-18(A), at 33:9-14 (April 15, 2024). And in the pre-filed testimony of Rory Davis for the hearing, Illinois EPA stated that it had no substantive objection to EDNF's proposal. Illinois Environmental Protection Agency's Testimony of Rory Davis, R 23-18(A), at 8 (April 2, 2024).

***B. EDNF Has Accepted Editorial Changes Proposed by the Board, JCAR Staff, and Illinois EPA.***

While the substance of EDNF's proposal has not changed during the rulemaking process, EDNF has accepted editorial changes proposed along the way. The current version of EDNF's proposal is attached as Exhibit 1 to this comment. It is identical to the text shown in EDNF's Supplemental Response to Illinois EPA's Comment, R 23-18(A), at 13-26 (March 15, 2024), with one correction. The March 15 text incorrectly showed the deletion of 35 Ill. Adm. Code 217.381(b), (c), and (d), which do not apply to EDNF and the deletion of which EDNF does not intend.<sup>4</sup>

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<sup>4</sup> In Mr. Davis' pre-filed testimony, he indicated that Illinois EPA also does not support deleting Section 217.381(b), (c), or (d), and his testimony correctly notes that the strikethrough of these sub-sections in the March 15 exhibit was unintentional. Illinois Environmental Protection Agency's Testimony of Rory Davis, R 23-18(A), at 8 (April 2, 2024).

The text in Exhibit 1 to this comment reflects EDNF's acceptance of proposed non-substantive revisions from the Board, the staff of the Joint Committee on Administrative Rules ("JCAR"), and Illinois EPA. The Board's proposed revisions originally were stated in Attachment, Hearing Officer Order, PCB R 23-18(A) (Sep. 20, 2023). JCAR staff's proposed revisions were emailed to the Board prior to the first hearing. Email Correspondence Between Richard McGill (Board) and Jonathan Eastvold (JCAR) Regarding Suggested Changes, R 23-18(A) (Sep. 7, 2023). EDNF previously indicated that it has no objection to either set of revisions. EDNF's First Post-Hearing Comment, R 23-18(A), at 9 (Oct. 26, 2023).

Following its review of the information EDNF submitted, Illinois EPA communicated additional non-substantive changes to EDNF's proposal. EDNF described these changes in its March 15, 2024 filing and incorporated them into the March 15 exhibit. EDNF's Supplemental Response to Illinois EPA's Comment, R 23-18(A), at 8 and Exhibit 1 (March 15, 2024). One of Illinois EPA's requested changes concerned the portion of the proposal that clarifies that the provisions of Section 217.381(a) with respect to opacity should apply to nitric acid plants instead of the provisions of Section 212.123. Although EDNF's original language had accomplished this clarification with an amendment to Section 217.381, Illinois EPA prefers to amend Part 212, instead. As EDNF stated at the time, it does not object to this preference or any other aspect of Illinois EPA's proposed language revision. *Id.* at 8.

EDNF has incorporated these non-substantive changes into Exhibit 1 to this comment. This exhibit includes the affected portions of Parts 212 and 217. In some cases, JCAR, the Board, and Illinois EPA had different editorial preferences, and EDNF has attempted to reconcile them for the purpose of presenting a single set of proposed language. None of these editorial differences has any substantive effect on the proposal.

With all requested information provided, all questions answered, and all suggested language changes incorporated, EDNF's proposal is ready for second notice and then ultimate adoption by the Board. Doing so will complete the process the Board began in R 23-18 of changing from the 1970s approach to startup, malfunction, and breakdown to a protective, approvable alternative emission limit that will allow weak nitric acid plants such as EDNF's to continue to start up and shut down legally in Illinois.

**V. CONCLUSION**

For the foregoing reasons, EDNF requests that the Board issue EDNF's proposal, as set forth in Exhibit 1 to this comment, for second notice and ultimately adopt the proposal as a final rule.

Dated: May 22, 2024

Respectfully submitted,

/s/ John M. Heyde  
East Dubuque Nitrogen Fertilizers, LLC  
By One of Its Attorneys

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**CERTIFICATE OF SERVICE**

I, the undersigned, on affirmation, state that I have served the attached **East Dubuque Nitrogen Fertilizers, LLC's Post-Hearing Comment in Support of Rulemaking Proposal** by email on the following:

<p><b>Illinois Pollution Control Board</b>  Don Brown - Clerk of the Board  don.brown@illinois.gov  100 W. Randolph St., Suite 11-500  Chicago, IL 60601</p> <p>Timothy Fox – Hearing Officer  Tim.Fox@illinois.gov  Chloe Salk – Hearing Officer  Chloe.Salk@illinois.gov  60 E. Van Buren St., Suite 630  Chicago, IL 60605</p>	<p><b>Office of the Attorney General</b>  Jason E. James - Assistant Attorney General  Jason.James@ilag.gov  201 West Point Drive, Suite 7  Belleville, IL 62226</p> <p>Molly Kordas - Assistant Attorney General  Molly.Kordas@ilag.gov  Ann Marie A. Hanohano - Assistant Attorney General  annmarie.hanohano@ilag.gov  69 West Washington Street, Suite 1800  Chicago, IL 60602</p>
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I further state that my email address is as stated in the signature block below, that the number of pages in this email transmission is 28, and that the email transmission took place before 5 p.m. on May 22, 2024.

Dated: May 22, 2024

Respectfully submitted,

/s/ John M. Heyde  
East Dubuque Nitrogen Fertilizers, LLC  
By One of Its Attorneys

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# **Exhibit 1**

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

**PART 212**  
**VISIBLE AND PARTICULATE MATTER EMISSIONS**

**SUBPART A: GENERAL**

Section	
212.100	Scope and Organization
212.107	Measurement Method for Visible Emissions
212.108	Measurement Methods for PM-10 Emissions and Condensable PM-10 Emissions
212.109	Measurement Methods for Opacity
212.110	Measurement Methods For Particulate Matter
212.111	Abbreviations and Units
212.112	Definitions
212.113	Incorporations by Reference

**SUBPART B: VISIBLE EMISSIONS**

Section	
212.121	Opacity Standards (Repealed)
212.122	Visible Emissions Limitations for Certain Emission Units For Which Construction or Modification Commenced On or After April 14, 1972
212.123	Visible Emissions Limitations for All Other Emission Units
212.124	Exceptions
212.125	Determination of Violations
212.126	Adjusted Opacity Standards Procedures

**SUBPART D: PARTICULATE MATTER EMISSIONS FROM INCINERATORS**

Section	
212.181	Limitations for Incinerators
212.182	Aqueous Waste Incinerators
212.183	Certain Wood Waste Incinerators
212.184	Explosive Waste Incinerators
212.185	Continuous Automatic Stoking Animal Pathological Waste Incinerators



SUBPART E: PARTICULATE MATTER EMISSIONS FROM FUEL COMBUSTION  
EMISSION UNITS

Section	
212.201	Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972, Using Solid Fuel Exclusively Located in the Chicago Area
212.202	Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972, Using Solid Fuel Exclusively Located Outside the Chicago Area
212.203	Controlled Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972, Using Solid Fuel Exclusively
212.204	Emission Units For Which Construction or Modification Commenced On or After April 14, 1972, Using Solid Fuel Exclusively
212.205	Coal-fired Industrial Boilers For Which Construction or Modification Commenced Prior to April 14, 1972, Equipped with Flue Gas Desulfurization Systems
212.206	Emission Units Using Liquid Fuel Exclusively
212.207	Emission Units Using More Than One Type of Fuel
212.208	Aggregation of Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972
212.209	Village of Winnetka Generating Station (Repealed)
212.210	Emissions Limitations for Certain Fuel Combustion Emission Units Located in the Vicinity of Granite City

SUBPART K: FUGITIVE PARTICULATE MATTER

Section	
212.301	Fugitive Particulate Matter
212.302	Geographical Areas of Application
212.304	Storage Piles
212.305	Conveyor Loading Operations
212.306	Traffic Areas
212.307	Materials Collected by Pollution Control Equipment
212.308	Spraying or Choke-Feeding Required
212.309	Operating Program
212.310	Minimum Operating Program
212.312	Amendment to Operating Program
212.313	Emission Standard for Particulate Collection Equipment
212.314	Exception for Excess Wind Speed
212.315	Covering for Vehicles
212.316	Emissions Limitations for Emission Units in Certain Areas

SUBPART L: PARTICULATE MATTER EMISSIONS FROM PROCESS EMISSION UNITS

Section	
212.321	Process Emission Units For Which Construction or Modification Commenced On or After April 14, 1972

- 212.322 Process Emission Units For Which Construction or Modification Commenced Prior to April 14, 1972
- 212.323 Stock Piles
- 212.324 Process Emission Units in Certain Areas

SUBPART N: FOOD MANUFACTURING

- Section
- 212.361 Corn Wet Milling Processes
  - 212.362 Emission Units in Certain Areas

SUBPART O: PETROLEUM REFINING, PETROCHEMICAL AND CHEMICAL MANUFACTURING

- Section
- 212.381 Catalyst Regenerators of Fluidized Catalytic Converters

SUBPART Q: STONE, CLAY, GLASS AND CONCRETE MANUFACTURING

- Section
- 212.421 Portland Cement Processes For Which Construction or Modification Commenced On or After April 14, 1972
  - 212.422 Portland Cement Manufacturing Processes
  - 212.423 Emission Limits for the Portland Cement Manufacturing Plant Located in LaSalle County, South of the Illinois River
  - 212.424 Fugitive Particulate Matter Control for the Portland Cement Manufacturing Plant and Associated Quarry Operations Located in LaSalle County, South of the Illinois River
  - 212.425 Emission Units in Certain Areas

SUBPART R: PRIMARY AND FABRICATED METAL PRODUCTS AND MACHINERY MANUFACTURE

- Section
- 212.441 Steel Manufacturing Processes
  - 212.442 Beehive Coke Ovens
  - 212.443 Coke Plants
  - 212.444 Sinter Processes
  - 212.445 Blast Furnace Cast Houses
  - 212.446 Basic Oxygen Furnaces
  - 212.447 Hot Metal Desulfurization Not Located in the BOF
  - 212.448 Electric Arc Furnaces
  - 212.449 Argon-Oxygen Decarburization Vessels
  - 212.450 Liquid Steel Charging
  - 212.451 Hot Scarfing Machines
  - 212.452 Measurement Methods

212.455	Highlines on Steel Mills
212.456	Certain Small Foundries
212.457	Certain Small Iron-Melting Air Furnaces
212.458	Emission Units in Certain Areas

SUBPART S: AGRICULTURE

Section	
212.461	Grain-Handling and Drying in General
212.462	Grain-Handling Operations
212.463	Grain Drying Operations
212.464	Sources in Certain Areas

SUBPART T: CONSTRUCTION AND WOOD PRODUCTS

Section	
212.681	Grinding, Woodworking, Sandblasting and Shotblasting

SUBPART U: ADDITIONAL CONTROL MEASURES

Section	
212.700	Applicability
212.701	Contingency Measure Plans, Submittal and Compliance Date
212.702	Determination of Contributing Sources
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AUTHORITY: Implementing Section 10 and authorized by Section 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rules 202 and 203: Visual and Particulate Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-15, 32 PCB 403, at 3 Ill. Reg. 5, p. 798, effective February 3, 1979; amended in R78-10, 35 PCB 347, at 3 Ill. Reg. 39, p. 184, effective September 28, 1979; amended in R78-

11, 35 PCB 505, at 3 Ill. Reg. 45, p. 100, effective October 26, 1979; amended in R78-9, 38 PCB 411, at 4 Ill. Reg. 24, p. 514, effective June 4, 1980; amended in R79-11, 43 PCB 481, at 5 Ill. Reg. 11590, effective October 19, 1981; codified at 7 Ill. Reg. 13591; amended in R82-1 (Docket A), at 10 Ill. Reg. 12637, effective July 9, 1986; amended in R85-33 at 10 Ill. Reg. 18030, effective October 7, 1986; amended in R84-48 at 11 Ill. Reg. 691, effective December 18, 1986; amended in R84-42 at 11 Ill. Reg. 1410, effective December 30, 1986; amended in R82-1 (Docket B) at 12 Ill. Reg. 12492, effective July 13, 1988; amended in R91-6 at 15 Ill. Reg. 15708, effective October 4, 1991; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R91-22 at 16 Ill. Reg. 7880, effective May 11, 1992; amended in R91-35 at 16 Ill. Reg. 8204, effective May 15, 1992; amended in R93-30 at 18 Ill. Reg. 11587, effective July 11, 1994; amended in R96-5 at 20 Ill. Reg. 7605, effective May 22, 1996; amended in R23-18 at 47 Ill. Reg. 12107, effective July 25, 2023; amended in R23-18(A) at 47 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

## **SUBPART B: VISIBLE EMISSIONS**

### **Section 212.124 Exceptions**

- a) Sections 212.122 and 212.123 will not apply to emissions of water or water vapor from an emission unit.
- b) An emission unit that has obtained an adjusted opacity standard in compliance with Section 212.126 will be subject to that standard rather than the limitations of Section 212.122 or 212.123.
- c) Compliance with the particulate regulations of this Part will constitute a defense.
  - 1) For all emission units that are not subject to Chapters 111 or 112 of the CAA and Sections 212.201, 212.202, 212.203 or 212.204 but are subject to Sections 212.122 or 212.123: the opacity limitations of Sections 212.122 and 212.123 will not apply if it is shown that the emission unit was, at the time of emission, in compliance with the applicable particulate emissions limitations of Subparts D through T.
  - 2) For all emission units that are not subject to Chapters 111 or 112 of the CAA but are subject to Sections 212.201, 212.202, 212.203 or 212.204:
    - A) An exceedance of the limitations of Section 212.122 or 212.123 will constitute a violation of the applicable particulate limitations of Subparts D through T. It will be a defense to a violation of the applicable particulate limitations if, during a subsequent performance test conducted within a reasonable time not to exceed 60 days, under the same operating conditions for the unit and the

control devices, and in accordance with Method 5, 40 CFR 60, incorporated by reference in Section 212.113, the owner or operator shows that the emission unit is in compliance with the particulate emission limitations.

- B) It will be a defense to an exceedance of the opacity limit if, during a subsequent performance test conducted within a reasonable time not to exceed 60 days, under the same operating conditions of the emission unit and the control devices, and in accordance with Method 5, 40 CFR part 60, Appendix A, incorporated by reference in Section 212.113, the owner or operator shows that the emission unit is in compliance with the allowable particulate emissions limitation while, simultaneously, having visible emissions equal to or greater than the opacity exceedance as originally observed.

d) Section 212.123 shall not apply to emission units subject to 35 Ill. Adm. Code 217.381(a).

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

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

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~~Authority~~**AUTHORITY:** Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28.5 (2004)].

~~Source~~**SOURCE:** Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9 at 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001; amended in R01-16 and R01-17 at 25 Ill. Reg. 5914, effective April 17, 2001; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R07-19 at 33 Ill. Reg. 11999, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13345, effective August 31, 2009; amended in R09-20 at 33 Ill. Reg. 15754, effective November 2, 2009; amended in R11-17 at 35 Ill. Reg. 7391, effective April 22, 2011; amended in R11-24 at 35 Ill. Reg. 14627, effective August 22, 2011; amended in R11-08 at 35 Ill. Reg. 16600, effective September 27, 2011; amended in R09-19 at 35 Ill. Reg. 18801, effective October 25, 2011; amended in R15-21 at 39 Ill. Reg. 16213, effective December 7, 2015; amended in R 23-18(A), at 47 Ill. Reg. , effective \_\_\_\_\_.

## SUBPART O: CHEMICAL MANUFACTURE

Section 217.381 Nitric Acid Manufacturing Processes

- a) New Weak Nitric Acid Processes. ~~No~~A person ~~shall~~must not cause or allow the emission of nitrogen oxides into the atmosphere from any new weak nitric acid manufacturing process to exceed the following standards and limitations:
  - 1) ~~4.50.75~~ kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis) ~~(3.01.5 lbs/T), on a 30-day rolling average basis, calculated from the quantity of NOx emitted per quantity of acid produced (100 percent acid basis) for each operating hour within the prior 30 operating days, and the average of those hourly values over the 30-day Operating Period;~~

- 2) Visible emissions in excess of 5 percent opacity, except during Startup and Shutdown;
  - 3) During Startup and Shutdown, as defined in subsection (e), visible emissions must be controlled through:
    - A) Operating in a manner consistent with good air pollution control practices for minimizing emissions;
    - B) Maintaining a log of Startup and Shutdown events, including the dates, times, and durations of those events, quantity of acid produced during those events (lb/hr), and NO<sub>x</sub> emissions during those events (lb/hr). These records shall be submitted to the Agency upon request; and
    - C) Operating according to written Startup and Shutdown procedures that are specifically developed to minimize Startup and Shutdown emissions, duration of individual Startups and Shutdowns, and frequency of Startups and Shutdowns.
  - 4) 0.05 kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis) from any acid storage tank vents (0.1 lbs/T).
  - 5) In determining compliance with subsection (a)(1), during process operating periods where there is little or no acid production (e.g., Startup or Shutdown), the average hourly acid production rate must be determined from the data collected over the previous 30 days of normal acid production periods. For any hour in which subsection 217.381(a)(5) is utilized for compliance calculations, the owner or operator must maintain records of the quantity of acid produced within that hour.
- b) Existing Weak Nitric Acid Processes. No person shall cause or allow the emission of nitrogen oxides into the atmosphere from any existing weak nitric acid manufacturing process to exceed the following standards and limitations:
- 1) 2.75 kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis) (5.5 lbs/T);
  - 2) Visible emissions in excess of 5 percent opacity;
  - 3) 0.1 kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis) from any acid storage tank vents (0.2 lbs/T).
- c) Concentrated Nitric Acid Processes. No person shall cause or allow the emission of nitrogen oxides into the atmosphere from any concentrated nitric acid manufacturing process to exceed the following standards and limitations:

- 1) 1.5 kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis)(3.0 lbs/T);
  - 2) 225 ppm of nitrogen oxides (expressed as nitrogen dioxide) in any effluent gas stream emitted into the atmosphere;
  - 3) Visible emissions in excess of 5 percent opacity.
- d) Nitric Acid Concentrating Processes. No person shall cause or allow the emission of nitrogen oxides into the atmosphere from any nitric acid concentrating process to exceed the following limitations:
- 1) 1.5 kg of nitrogen oxides (expressed as nitrogen dioxide) per metric tonne of acid produced (100 percent acid basis) (3.0 lbs/T);
  - 2) Visible emissions in excess of 5 percent opacity.
- e) Definitions. For the purposes of this Section, the following definitions apply:
- 1) “Operating Periods” mean periods during which a process is producing nitric acid and nitrogen oxides are emitted. Operating Periods begin at the initiation of Startup, end at the completion of Shutdown, and include all periods of Malfunction.
  - 2) “Shutdown” means the cessation of nitric acid production operations of the process for any reason. Shutdown begins at the time the feed of ammonia to the process ceases and ends the earlier of three hours later or the cessation of feed of compressed air to the process.
  - 3) “Startup” means the process of initiating nitric acid production operations at a process. Startup begins one hour prior to the initiation of the feed of ammonia to the process and ends no more than five hours after such initiation of the feed of ammonia.

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