

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

**PART 203**  
**MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION**

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

## **SUBPART A: GENERAL PROVISIONS**

### **Section 203.101 Definitions**

Unless otherwise specified within this Part, the definitions of the terms used in this Part shall be the same as those used in the Pollution Control Board (Board) Rules and Regulations 35 Ill. Adm. Code 201 and 211.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.103 Actual Construction**

"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 erection of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.104 Actual Emissions**

"Actual Emissions" means the actual rate of annual emissions of a pollutant from an emissions unit as of a particular date. Actual emissions are equal to the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during the two-year period which immediately precedes the particular date or such other period which is determined by the Illinois Environmental Protection Agency (Agency) to be representative of normal source operation. 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; however:

- a) 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 two years is not representative of normal source operations.

- b) The Agency may presume in the absence of reliable data on actual emissions that the source-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the emissions unit.
- c) For any emissions unit which has not begun normal operations on the particular date, the Agency shall presume that the potential to emit of the emissions unit is equivalent to the actual emissions on that date.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.107 Allowable Emissions**

- a) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable permit conditions or other such federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:
  - 1. Any applicable standards adopted by the United States Environmental Protection Agency (USEPA) pursuant to Sections 111 and 112 of the Clean Air Act (42 U.S.C. 7401, et seq.) and made applicable in Illinois pursuant to Section 9.1 of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, pars. 1001 et seq.) [415 ILCS 5/1 et seq.];
  - 2. The applicable emission standards or limitations contained in this Chapter and approved by USEPA pursuant to Section 110(a)(2) or 110 (a)(3) of the Clean Air Act, including those standards or limitations with a future compliance date and any other emission standard or limitation enforceable under the Environmental Protection Act or by the USEPA under Section 113 of the Clean Air Act; or
  - 3. The emissions rate specified as a federally enforceable permit condition including those emissions rates with a future compliance date.
- b) The allowable emissions may be based on a federally enforceable permit condition limiting material or fuel throughput.
- c) If a source is not subject to an emission standard described in subsection (a) above and is not subject to a permit condition described in subsection (b) above, the allowable emissions shall be the source's potential to emit.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.110 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 United States Environmental Protection Agency under Section 172(c)(4) of the Clean Air Act (42 U.S.C. 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 Clean Air Act (42 U.S.C.7503(a)(1)(B)).

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.112 Building, Structure and Facility**

- a) The terms "building", "structure", and "facility" include 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 "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively) incorporated by reference in 35 Ill. Adm. Code 720.111.
- b) The terms "building", "structure", and "facility" shall also include:
  - 1) the transfer of materials, including but not limited to grain, gasoline, petroleum liquids, coal, fertilizer, crushed stone and ore, from vessels, motor vehicles or other conveyances, irrespective of ownership or industrial grouping, to or from a building, structure, or facility as defined in subsection (a) above, and
  - 2) activities at or adjacent to such building, structure or facility which are associated with such transfer, including but not limited to the operation of engines to provide heat, refrigeration or lighting, operating of auxiliary engines for pumps or cranes, and transfer of materials from hold to hold or tank to tank during onloading or offloading operations except those activities causing emissions resulting directly from internal combustion engines from transportation purposes or from a non road engine or non road vehicle as defined in Section 216 of the Clean Air Act (42 U.S.C. 7401 et seq.).

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.113      Commence**

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

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.116      Construction**

"Construction" means any physical change or change in the method of operation, including but not limited to fabrication, erection, installation, demolition, or modification of an emissions source unit, which would result in a change in actual emissions.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.117      Dispersion Enhancement Techniques**

"Dispersion Enhancement Techniques" mean so much of the stack height of any source as exceeds good engineering practice or any other dispersion technique, determined by regulations at 40 CFR 51.100 (1987) (no future amendments or editions are included).

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.119      Emission Baseline**

"Emission baseline" means the starting point or reference level from which increases and decreases in emissions are measured. The rules governing determination of emission offsets, calculations of net emission increases, and evaluation under 35 Ill. Adm. Code 202, Alternative Control Strategies specify the particular emission baseline that applies for that purpose.

**Section 203.121      Emission Offset**

"Emission offset" means a creditable emission reduction used to compensate for the increase in emissions resulting from a new major source or a major modification in accordance with Sections 203.302 and 203.303 of this Part.

(Source: Section 203.121 renumbered from Section 203.122 and amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.122      Emissions Unit**

"Emissions unit" means any part of a stationary source which emits or has the potential to emit any air pollutant subject to regulation under the Act or this Chapter or by the United States Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

(Source: Former Section 203.122 renumbered to Section 203.121, Section 203.122 renumbered from Section 203.123, and Section amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.123      Federally Enforceable**

"Federally enforceable" means enforceable by the United States Environmental Protection Agency.

(Source: Former Section 203.123 renumbered to Section 203.122, new Section 203.123 added at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.124      Fugitive Emissions**

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

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.125      Installation**

"Installation" means an identifiable piece of equipment, including, but not limited to, boilers, furnaces, reactors, dryers, incinerators, heaters, and coating lines.

(Source: Former Section 203.125 renumbered to Section 203.126, new Section 203.125 adopted at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.126      Lowest Achievable Emission Rate**

"LAER" is an acronym for lowest achievable emission rate.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.127      Nonattainment Area**

An area designated by USEPA as nonattainment for a given pollutant pursuant to Section 107 of the Clean Air Act (42 U.S.C. 7407).

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.128      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. Secondary emissions do not count in determining the potential to emit of a stationary source.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.131      Reasonable Further Progress**

"Reasonable Further Progress" means the annual incremental reductions in the emissions of the applicable air pollutant as determined by USEPA pursuant to Part D of the Clean Air Act (42 U.S.C. 7501 et seq.) and federal regulations adopted pursuant thereto.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.134      Secondary Emissions**

"Secondary Emissions" means the 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. For the purpose of this Part, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to, emissions from any off-site 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.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.136      Stationary Source**

"Stationary Source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act or this Chapter or by USEPA under the Clean Air Act (42 U.S.C. 7401 et seq.).

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.145      Volatile Organic Material (Repealed)**

(Source: Repealed at 17 Ill. Reg. 16630, effective September 27, 1993)

### **Section 203.150      Public Participation**

Prior to the initial issuance or revision of a permit pursuant to Subpart B, the Agency shall provide, at a minimum, notice of the proposed issuance of a permit, a comment period, and opportunity for public hearing pursuant to the Agency public participation procedures set forth at 35 Ill. Adm. Code 252.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.155      Severability (Repealed)**

(Source: Repealed at 12 Ill. Reg. 6118, effective March 22, 1988)

## **SUBPART B: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS**

### **Section 203.201      Prohibition**

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or nitrogen oxides. Revisions to this Part which were adopted to implement the Clean Air Act 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, May 15, 1992, for SO<sub>2</sub>, or by November 15, 1992, for nitrogen oxides and volatile organic material emissions for sources located in all ozone nonattainment areas.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.202      Coordination with Permit Requirement and Application  
Pursuant to 35 Ill. Adm. Code 201**

For new major sources and major modifications, the fulfillment of the requirements of 35 Ill. Adm. Code 201 related to construction, including the permit requirements of 35 Ill. Adm. Code 201.142, shall be combined with the requirements of this Subpart.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.203      Construction Permit Requirement and Application**

- a) A construction permit is required prior to actual construction of a major new source or major modification.
- b) Applications for construction permits required under this Section shall contain sufficient information to demonstrate compliance with 35 Ill. Adm. Code 201 and the requirements of this Part including, but not limited to, Subpart C.
- c) The permit shall include conditions specifying the manner in which the requirements of Subparts B and C of this Part are satisfied.
- d) No permittee 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.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.204      Duration of Construction Permit (Repealed)**

(Source: Repealed at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.205      Effect of Permits**

The issuance of a permit for a source subject to the requirements of this Part shall not relieve any person of the responsibility to comply fully with applicable provisions of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1985, ch. 111 1/2, pars 1001 et seq.), this Chapter, and any other applicable requirements under local, state or federal law.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.206      Major Stationary Source**

- a) For purposes of this Part, the term "major stationary source" shall exclusively mean "building, structure and facility," as those terms are defined in Section 203.113 of this Part.
- b) The following constitute a major stationary source:
  - 1) For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater than the following:
    - A) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone;
    - B) 50 tons per year in an area classified as serious nonattainment for ozone;
    - C) 25 tons per year in an area classified as severe nonattainment for ozone; and
    - D) 10 tons per year in an area classified as extreme nonattainment for ozone.
  - 2) For an area designated as nonattainment for nitrogen dioxide, a major stationary source is a stationary source which emits or has the potential to emit 100 tons per year or more of nitrogen dioxide.
  - 3) For an area designated as nonattainment for ozone, a major stationary source is a stationary source which emits or has the potential to emit nitrogen oxides in an amount equal to or greater than the following, unless United States Environmental Protection Agency (USEPA) has made a finding under Sections 110 and 182(f) of the Clean Air Act that controlling of emissions of nitrogen oxides from such source shall not be required:
    - A) 100 tons per year in an area classified as marginal or moderate nonattainment for ozone,
    - B) 50 tons per year in an area classified as serious nonattainment for ozone,
    - C) 25 tons per year in an area classified as severe nonattainment for ozone, and
    - D) 10 tons per year in an area classified as extreme nonattainment for ozone.

- 4) 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 tons per year or more of PM-10 in an area classified as moderate nonattainment area, or
    - B) 70 tons per year or more of PM-10 in an area classified as serious nonattainment.
  - 5) For an area designated nonattainment for carbon monoxide, a major stationary source is a stationary source which emits or has the potential to emit:
    - A) 100 tons per year or more of carbon monoxide in a nonattainment area, except as provided in subsection (b)(5)(B),
    - B) 50 tons per year or more in an area classified as "serious" nonattainment for carbon monoxide where stationary sources significantly contribute to ambient carbon monoxide levels, as determined under rules issued by USEPA, pursuant to the Clean Air Act.
  - 6) For an area designated nonattainment for a pollutant other than ozone, nitrogen dioxide, PM-10 or carbon monoxide, a major stationary source is a stationary source which emits or has the potential to emit 100 tons per year or more of the pollutant.
- c) Any physical change that occurs at a stationary source which does not qualify under subsection (a) of this Section as a major stationary source will be considered a major stationary source, if the change would constitute a major stationary source by itself.
  - d) For purposes of this Part, in areas that are classified as serious, severe, or extreme nonattainment, the fugitive emissions of a stationary source shall be included in determining whether it is a major stationary source. In areas that are not classified as serious, severe or extreme nonattainment, the fugitive emissions of a stationary source shall not be included in determining 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 250 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) Sulfer 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;
- 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;
- 27) Any other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Clean Air Act (42 U.S.C. 7411, 7412), but only with respect to those air pollutants that have been regulated for that category;
- 28) Any other stationary source category designated by the USEPA by rule.

(Source: Amended at 22 Ill. Reg. 5674, effective March 10, 1998.)

**Section 203.207 Major Modification of a Source**

- a) Except as provided in subsection (c), (d), (e) or (f) below, a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area, shall constitute a major modification of a source.
- b) Any net emissions increase that is significant for volatile organic material or nitrogen oxides shall be considered significant for ozone.
- c) A physical change or change in the method of operation shall not include:
  - 1) Routine maintenance and repair.
  - 2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791), the Power Plant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act (16 U.S.C. 791, et seq.).
  - 3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act (42 U.S.C. 7425).
  - 4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

- 5) Use of an alternative fuel or raw material by a stationary source which:
  - A) Was capable of accommodating such alternative fuel or raw material before December 21, 1976, and which has continuously remained capable of accommodating such fuels or materials unless such change would be prohibited under any enforceable permit condition established after December 21, 1976, pursuant to 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143, or
  - B) Is approved for use under any permit issued pursuant to this Part or 35 Ill. Adm. Code 201.142 or 201.143.
- 6) An increase in the hours of operation or in the production rate, unless such change is prohibited under any enforceable permit condition which was established after December 21, 1976 pursuant to 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.
- d) In an area classified as serious or severe nonattainment for ozone, increased emissions of volatile organic material or nitrogen oxides resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall be considered de minimis for purposes of this Part if the increase in net emissions of such air 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.
- e) In the case of any major stationary source of volatile organic material or nitrogen oxides located in an area classified as serious or severe nonattainment for ozone (other than a source which emits or has the potential to emit 100 tons or more of volatile organic material or nitrogen oxides per year), whenever any change at that source results in any increase (other than a de minimis increase) in emissions of volatile organic material or nitrogen oxides, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, such 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 volatile organic material or nitrogen oxides, respectively, from other operations, units, or activities within the

source at an internal offset ratio of at least 1.3 to 1.

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

(Source: Amended at 22 Ill. Reg.5674, effective March 10, 1998)

### **Section 203.208 Net Emission Determination**

A net emissions increase is the amount by which the sum of any increase in actual emissions from a particular physical change or change in method of operation at a source, and any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable, exceeds zero. The following steps determine whether the increase or decrease in emissions is available.

- a) Except for increases or decreases in volatile organic material and nitrogen oxides emissions in serious and severe ozone nonattainment areas which are addressed in Section 203.209(b), 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 United States Environmental Protection Agency as a nonattainment area for the pollutant, whichever is more recent.
- b) An increase or decrease in actual emissions is creditable:
  - 1) Only if there is not in effect for the source at the time the particular change occurs, a permit which relied on the same increase or decrease in actual emissions; and
  - 2) Only to the extent the new and old levels differ.
- c) A decrease in actual emissions is creditable to the extent that:
  - 1) It is federally enforceable at and after the time that actual construction on the particular change begins;
  - 2) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change;



- 3) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions; and
  - 4) It is demonstrated by the Agency not to have been previously relied on in issuing any permit pursuant to this part or 35 Ill. Adm. Code 201.142 or 201.143 or for demonstrating attainment or reasonable further progress in the nonattainment area which the particular change will impact.
- d) 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 replacement unit that requires shakedown becomes operational only after a shakedown period not to exceed 180 days.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

**Section 203.209 Significant Emissions Determination**

- a) A net emission increase in the pollutant emitted is significant if the rate of emission is equal to or in excess of the following:
  - 1) Carbon monoxide: 100 tons per year (tpy)
  - 2) Nitrogen oxides: 40 tpy for a nonattainment area for nitrogen dioxide and 40 tpy for an ozone nonattainment area, except as provided in subsection (b) of this Section
  - 3) Sulfur dioxide: 40 tpy
  - 4) Particulate matter measured as PM-10: 15 tpy
  - 5) Ozone: 40 tpy of volatile organic material, except as provided in subsection (b) of this Section
  - 6) Lead: 0.6 tpy
- b) For areas classified as serious or severe nonattainment for ozone, an increase in emissions of volatile organic material or nitrogen oxides 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.

(Source: Amended at 18 Ill. Reg. 6335, effective April 15, 1994)

**Section 203.210 Relaxation of a Source-Specific Limitation**

- a) No person shall cause or allow the operation of a source so as to exceed any enforceable limitation which affects or defines the applicability of the requirements of this Part to a stationary source or modification by specifying the permissible emission rate, operating hours, the type or amount of material processed, stored or combusted, or other aspects of source operation.
- b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in, or expiration of, 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 as though construction had not yet commenced on the source or modification.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

**Section 203.211 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 203.206(d).

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)

**SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS**

**Section 203.301 Lowest Achievable Emission Rate**

- a) For any source, lowest achievable emission rate (LAER) will be the more stringent rate of emissions based on the following:
  - 1) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of

stationary source, unless it is demonstrated that such limitation is not achievable; or

- 2) The most stringent emission limitation which is achieved in practice by such a class or category of stationary source. 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 United States Environmental Protection Agency (USEPA) pursuant to Section 111 of the Clean Air Act and made applicable in Illinois pursuant to Section 9.1 of the Act.
- b) 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.
  - c) Except as provided in subsection (e) or (f) below, 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. This requirement applies to each emissions unit at which a net increase in emissions of the pollutant has occurred or would occur as a result of a physical change or change in the method of operation.
  - d) 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.
  - e) If the owner or operator of a major stationary source (other than a source which emits or has the potential to emit 100 tons per year or more of volatile organic material or nitrogen oxides) 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 203.207(e) of this Part, 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 Best Available Control Technology (BACT), as defined in section 169 of the Clean Air Act, shall be substituted for the Lowest Achievable Emission Rate (LAER). BACT shall be determined in accordance with policies and procedures published by USEPA.

- f) In the case of any major stationary source of volatile organic material or nitrogen oxides located in an area classified as serious or severe nonattainment for ozone which emits or has the potential to emit 100 tons per year or more of volatile organic material or nitrogen oxides, respectively, whenever any change at that source results in any increase (other than a de minimis increase) in emissions of volatile organic material or nitrogen oxides, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, such 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 volatile organic material or nitrogen oxides, respectively, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of this Section concerning LAER shall not apply.

(Source: Amended at 22 Ill. Reg. 5674, effective March 10, 1998)

**Section 203.302      Maintenance of Reasonable Further Progress and Emission Offsets**

- a) The owner or operator of a new major source or major modification shall provide emission offsets equal to or greater than the allowable emissions from the source or the net 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 Clean Air Act (42 U.S.C. 7401 et seq.).
- 1) For new major sources or major modifications in ozone nonattainment areas the ratio of total emission reductions provided by emission offsets for volatile organic material or nitrogen oxides to total increased emissions of such contaminants 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 (1) above shall not be applicable in extreme areas to a modification of an existing source:
  - A) if such modification consists of installation of equipment required to comply with the implementation plan or the Clean Air Act; or
  - B) if the owner or operator of the 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.
- b) The Agency shall allow the use of all or some portion of the available growth margin to satisfy subsection (a) above if the owner or operator can present evidence that the possible sources of emission 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 United States Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

### **Section 203.303 Baseline and Emission Offsets Determination**

- a) An emission offset must be obtained from a source in operation prior to the permit application for the new or modified source. Emission offsets must be effective prior to start-up of the new or modified source.
- b) The emission offsets provided:
  - 1) Must be of the same pollutant and further be of a type with approximately the same qualitative significance for public health and welfare as that attributed to the increase from a particular change;
  - 2) Must, in the case of a fuel combustion source, be based on the type of fuel being burned at the time the permit application is filed, and, if offset is to be produced by a future switch to a cleaner fuel, be accompanied by evidence that long-term supplies of the clean fuel are available and a commitment to a specified alternative control

measure which would achieve the same degree of emission reduction if return of the dirtier fuel is proposed;

- 3) Must, in the case of a past shutdown of a source or permanent curtailment of production or operating hours, have occurred since April 24, 1979, or the date of area is designated a nonattainment area for the pollutant, whichever is more recent, and, until the United States Environmental Protection Agency has approved the attainment demonstration and state trading or marketing rules for the relevant pollutant, the proposed new or modified source must be a replacement for the shutdown or curtailment;
  - 4) Must be federally enforceable by permit;
  - 5) Must not have been previously relied on, as demonstrated 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.
- c) The baseline for determining the extent to which emission reductions are creditable as offsets shall be the actual emissions of the source from which the offset is to be obtained, to the extent they are within any applicable emissions limitations of this Chapter or the Act or any applicable standards adopted by USEPA pursuant to Section 111 and 112 of the Clean Air Act, and made applicable in Illinois pursuant to Section 9.1 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1009.1) [415 ILCS 5/9.1].
- d) The location of sources providing the emission reductions to fulfill the offset requirements of this Section:
- 1) Must be achieved in the same nonattainment area as the increase being offset, except as provided as follows:
    - A) An owner or operator may obtain the necessary emission reductions from another nonattainment area where such other area has an equal or higher nonattainment classification than the area in which the source is located, and
    - B) The emission reductions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the new or modified source is located.

- 2) Must, for particulate matter, sulfur dioxide and carbon monoxide, be such that, relative to the site of the proposed new or modified source, the location of the offset, together with its effective stack height, ensures a positive net air quality benefit. This shall be demonstrated by atmospheric simulation modeling, unless the sources providing the offset are on the same premises or in the immediate vicinity of the new or modified source and the pollutants disperse from substantially the same effective stack height. In determining effective stack height, credit shall not be given for dispersion enhancement techniques. The owner or operator of a proposed new or modified source shall perform the analysis to demonstrate the acceptability of the location of an offset, if the Agency declines to make such analysis. Effective stack height means actual stack height plus plume rise. Where actual stack height exceeds good engineering practices, as determined pursuant to 40 CFR 51.100 (1987) (no future amendments or editions are included), the creditable stack height shall be used.
- e) Replacement of one volatile organic material with another of lesser reactivity does not constitute an emission reduction.
- f) Emission reductions otherwise required by the Clean Air Act (42 U.S.C. 7401 et seq.) shall not be creditable for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by the Clean Air Act shall be creditable as emission reductions for such purposes if such emissions reductions meet the requirements of this subpart.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

#### **Section 203.304 Exemptions from Emissions Offset Requirement (Repealed)**

(Source: Repealed at 12 Ill. Reg. 6118, effective March 22, 1988)

#### **Section 203.305 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 Illinois Pollution Control Board or a court decree.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

## **Section 203.306      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.

(Source: Amended at 17 Ill. Reg. 6973, effective April 30, 1993)

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

### **Section 203.601      Lowest Achievable Emission Rate Compliance Requirement**

No person shall cause or allow the operation of a new major stationary source or major modification subject to the requirements of Subpart C, except as in compliance with applicable LAER provisions established pursuant to Section 203.301 for such source or modification.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.602      Emission Offset Maintenance Requirement**

No person shall cause or allow the operation of a new major stationary source or major modification where the owner or operator has demonstrated that it would not interfere with reasonable further progress by providing emission offsets pursuant to Section 203.302 without maintaining those emission offsets or other equivalent offsets.

(Source: Amended at 12 Ill. Reg. 6118, effective March 22, 1988)

### **Section 203.603      Ambient Monitoring Requirement (Repealed)**

(Source: Repealed at 12 Ill. Reg. 6118, effective March 22, 1988)

## **SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS**

### **Section 203.701      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.

(Source: Added at 12 Ill. Reg. 6118, effective March 22, 1988)



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

### **Section 203.801      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.

(Source: Added at 17 Ill. Reg. 6973, effective April 30, 1993)