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[FR Doc. 2021–19156 Filed 9–8–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0501, EPA–R05–OAR–2020–0502, EPA–R05–OAR–2020–0503; FRL–8919–02–R5]

Air Plan Approval; Illinois; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Illinois State Implementation Plan (SIP) that were submitted by the Illinois Environmental Protection Agency (IEPA) on September 22, 2020, and amended on November 5, 2020, and March 3, 2021. These revisions implement new preconstruction permitting regulations for certain new or modified sources of air pollution in attainment and unclassifiable areas under the Prevention of Significant Deterioration (PSD) program of the Clean Air Act (CAA). EPA is also transferring to IEPA responsibility for administering existing PSD permits that EPA previously issued to sources in Illinois, and for processing any PSD permit actions related to such permits.

DATES: This final rule is effective on October 12, 2021.

ADDRESSES: EPA has established dockets for this action under Docket ID Nos. EPA–R05–OAR–2020–0501, EPA–R05–OAR–2020–0502, and EPA–R05–OAR–2020–0503. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone David Ogulei, Environmental Engineer, at (312) 353–0987 before visiting the Region 5 office.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background

Section 110(a)(2)(C) of the CAA requires that each SIP include a program to provide for the regulation of the construction and modification of stationary sources within the areas covered by the SIP. We refer to these as the New Source Review (NSR) provisions. They consist primarily of: (1) A permit program as required by part C of subsection I of the CAA, PSD, as necessary to assure that national ambient air quality standards (NAAQS) are achieved; (2) a permit program as required by part D of subsection I of the CAA, Plan Requirements for Nonattainment Areas, as necessary to assure that NAAQS are attained and maintained in ''nonattainment areas'' (known as ''nonattainment NSR''), and (3) a permit program for minor sources and minor modifications of major sources as required by section 110(a)(2)(C) of the CAA. Specific plan requirements for an approvable PSD SIP are provided in sections 160–169 of the CAA and the implementing regulations at 40 CFR 51.166. The requirements applicable to SIP requirements for nonattainment areas are provided in sections 171–193 of the CAA and the implementing regulations at 40 CFR 51.165. The Federal PSD requirements at 40 CFR 52.21 apply through Federal Implementation Plans (FIPs) in states without a SIP-approved PSD program.

The PSD SIP requirements apply to new major sources or major modifications at existing major stationary sources for pollutants where the area the source is located has been designated as ''attainment'' or ''unclassifiable'' with respect to the NAAQS under section 107(d) of the CAA. Under section 160 of the CAA, the purposes of the PSD program are to: (1) Protect public health and welfare; (2) preserve, protect and enhance the air quality in national parks, national wilderness areas, national monuments, national seashores, and other areas of special national or regional natural, recreational, scenic, or historic value; (3) ensure that economic growth will occur in a manner consistent with the preservation of existing clean air resources; (4) assure that emissions from any source in any State will not interfere with any portion of the applicable implementation plan to prevent significant deterioration of air quality for any other State; and (5) assure that any decision to permit increased air pollution in any area to which the PSD program applies is made only after careful evaluation of all the consequences of such a decision and after adequate procedural opportunities for informed public participation in the decision making process.

Before a PSD permit can be issued, the stationary source must demonstrate that the new major source or major modification will be equipped with the Best Available Control Technology (BACT) for all po11utants regulated under the PSD program that are emitted in significant amounts, and that increased emissions from the project will not result in a violation of the NAAQS or applicable ambient air quality increments. *See* CAA section 165.

Because Illinois does not currently have a SIP-approved PSD program, PSD permits in Illinois have been issued under a FIP incorporating the requirements of 40 CFR 52.21. Prior to April 7, 1980, EPA was solely responsible for, and operated, the PSD permitting program in Illinois. However, since April 7, 1980, IEPA has issued PSD permits under a delegation agreement with EPA that authorizes IEPA to implement the FIP. *See* 46 FR 9580 (Jan. 29, 1981) (1980 Delegation Agreement). Under a November 16, 1981 amendment to the 1980 Delegation Agreement,[1] IEPA also has the authority to amend or revise any PSD permit issued by EPA under the FIP. Thus, all PSD permits issued in Illinois are currently considered Federal permits; and PSD permits issued after April 7, 1980, are enforceable by Illinois and EPA since they were issued under both Illinois and EPA authority.

On September 22, 2020, IEPA submitted to EPA a request to revise the Illinois SIP to establish a SIP-approved PSD program in Illinois. Specifically, IEPA requested that EPA incorporate

[1] A copy of this amendment to the delegation agreement is available in the docket for this action.

into the SIP the following: (1) Amendments to Title 35 Illinois Administrative Code (35 Ill. Adm. Code) Part 203, Major Stationary Source Construction and Modification; (2) new regulations at 35 Ill. Adm. Code Part 204, Prevention of Significant Deterioration; (3) amendments to 35 Ill. Adm. Code Part 211, Definitions and General Provisions;[2] and (4) amendments to 35 Ill. Adm. Code Part 252, Public Participation in the Air Pollution Control Permit Program. The amendments to 35 Ill. Adm. Code Parts 203 and 211 update these rules to refer to permitting pursuant to 35 Ill. Adm. Code Part 204, as well as to 40 CFR 52.21. These amendments to 35 Ill. Adm. Code Parts 203 and 211 involve regulations that EPA has previously approved into the Illinois SIP for purposes of other provisions of the CAA (excluding the PSD program). *See* 40 CFR 52.720(c). On November 5, 2020, IEPA submitted additional information clarifying how it intends to implement specific provisions identified by EPA, and how it plans to correct any typographical errors or omissions that EPA identified in its October 22, 2020 review of IEPA's September 2020 submittal. Additionally, on March 3, 2021, IEPA submitted a request to withdraw a portion of the submitted amendments, 35 Ill. Adm. Code 252.301, from approval into the SIP. This provision applies to EPA's review of title V permits issued by IEPA.

On April 28, 2021, EPA issued a notice of proposed rulemaking (proposed rule) in which we proposed to find that IEPA's proposed regulations and amendments meet the requirements of sections 160–169 of the CAA and the implementing regulations at 40 CFR 51.166. *See* 86 FR 22372. We explained in the preamble to the proposed rule that, with a few exceptions, IEPA's PSD regulations at 35 Ill. Adm. Code Part 204 and 35 Ill. Adm. Code Part 252 largely mirror the Federal regulations at 40 CFR 52.21 and 40 CFR part 124, respectively. We proposed to approve IEPA's PSD regulations contained in 35 Ill. Adm. Code Parts 204 and 252 to apply statewide, except in Indian reservations. For the facilities in Indian reservations in the State, and any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, the PSD FIP incorporating 40 CFR 52.21 would continue to apply and EPA would retain responsibility for issuing permits affecting such sources.

In this final action, EPA finds that IEPA's regulations at 35 Ill. Adm. Code Part 204 and the amendments to 35 Ill. Adm. Code Parts 203, 211 and 252 meet the requirements of sections 160–169 of the CAA and the minimum program requirements of 40 CFR 51.166. EPA is therefore approving these regulations and amendments into the Illinois SIP and is codifying this approval in the Federal regulations at 40 CFR 52.720. Upon the effective date of this approval, PSD permits issued by IEPA will be issued under state authority and will no longer be considered Federal actions. However, such PSD permits will continue to be federally enforceable as defined at 40 CFR 51.166(b)(17).

This action also transfers to IEPA responsibility for administering existing PSD permits that EPA previously issued to sources in Illinois pursuant to the FIP, and for processing any PSD permit actions related to such permits.

II. Summary of EPA Analysis

A. Procedural Requirements

For the reasons discussed in the proposed rule, EPA finds that IEPA has satisfied the procedural requirements for a SIP submittal as set forth in 40 CFR 51.102, 51.103 and 40 CFR part 51, appendix V.

B. 35 Ill. Adm. Code Part 203 (Major Stationary Source Construction and Modification)

For the reasons discussed in the proposed rule, EPA is approving IEPA's amendments to 35 Ill. Adm. Code Part 203. The amendments update certain provisions in this regulation such that they refer to permits issued under 40 CFR 52.21 or 35 Ill. Adm. Code Part 204, Illinois' new regulation for a state PSD permitting program. Specifically, EPA is approving amendments to 35 Ill. Adm. Code 203.207(a), (c)(2), (c)(3), (c)(5), (c)(6), (e) and (f). Accordingly, upon the effective date of this final action, IEPA will issue PSD permits under 35 Ill. Adm. Code Part 204, but permits previously issued under 40 CFR 52.21 will continue to be effective unless rescinded or otherwise rendered invalid.

C. 35 Ill. Adm. Code Part 204

Under 40 CFR 51.166(a)(7)(iv), each SIP shall contain the specific provisions of 40 CFR 51.166(a)(7)(iv)(*a*) through (*f*). EPA will approve deviations from these provisions only if the State specifically demonstrates that the submitted provisions are more stringent than, or at least as stringent, in all respects as the corresponding provisions in 40 CFR 51.166(a)(7)(iv)(*a*) through (*f*). Additionally, 40 CFR 51.166(b) requires that all SIPs shall use the definitions in 40 CFR 51.166(b) for the purposes of 40 CFR 51.166 and that deviations from the wording of those definitions will be approved only if the State specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding definitions in 40 CFR 51.166(b).

EPA finds that IEPA's PSD regulation is more stringent than, or at least as stringent, in all respects as the corresponding provisions in 40 CFR 51.166. While IEPA has submitted provisions that differ in some respects from the provisions in 40 CFR 51.166, as discussed in detail in the proposed rule,[3] we find that those differences do not render IEPA's regulation less stringent than the corresponding Federal language at 40 CFR 51.166.

D. 35 Ill. Adm. Code Part 211 (Definitions and General Provisions)

In the proposed rule, EPA proposed to approve amendments to 35 Ill. Adm. Code Part 211 that updated certain provisions in this regulation such that they refer to permits issued under 40 CPR 52.21 or 35 Ill. Adm. Code Part 204. Specifically, EPA proposed to approve amendments to 35 Ill. Adm. Code 211.7150(b) and (d), with a state effective date of September 4, 2020. On June 16, 2021, EPA approved into the Illinois SIP a more recent version of this regulation, with a state effective date of October 20, 2020. *See* 86 FR 31920. The October 20, 2020 version of 35 Ill. Adm. Code Part 211, as EPA approved on June 16, 2021, contains the changes that IEPA requested in its September 22, 2020 submittal for this action. Therefore, EPA is not acting on this portion of the submittal in this action.

E. 35 Ill. Adm. Code Part 252 (Public Participation)

For the reasons discussed in the proposed rule, EPA is approving into the SIP IEPA's regulations at 35 Ill. Adm. Code Part 252, except 35 Ill. Adm. Code 252.301. EPA finds that IEPA's amendments to 35 Ill. Adm. Code Part 252 meet the CAA requirements for public participation for the PSD program as set forth in 40 CFR 51.161 and 51.166(q), and are substantially identical to the public participation

[2] IEPA's September 2020 submittal also addressed Illinois' Infrastructure SIP requirements under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J) of the CAA for all of the following NAAQS: 2008 lead, 2010 nitrogen dioxide, 1997 ozone, 2008 ozone, 2015 ozone, 1997 particulate matter with aerodynamic diameter less than 2.5 microns ($PM_{2.5}$), 2006 $PM_{2.5}$, 2012 $PM_{2.5}$, and 2010 sulfur dioxide. This action does not address the infrastructure SIP portion of IEPA's submittal. EPA plans to address those requirements in a separate action.

[3] *See* 86 FR 22374–22380.

requirements in 40 CFR part 124 that are pertinent to the currently-applicable FIP incorporating 40 CFR 52.21. EPA is not including in its final approval 35 Ill. Adm. Code 252.301 because IEPA withdrew this provision from its submittal, and it is not a required element of a PSD SIP.

F. Personnel, Funding, and Authority

Section 110(a)(2)(E)(i) of the CAA requires states to have adequate personnel, funding, and authority under state law to carry out a SIP. EPA finds that IEPA has authority under state law to issue PSD permits. Specifically, sections 9.l(d)(l) and (2) of the Illinois Environmental Policy Act (Illinois Act), 415 ILCS 5/9.l(d)(l) and (2), specify that no person shall violate any provisions of sections 111, 112, 165, or 173 of the CAA, as now or hereafter amended, or the implementing Federal regulations; or construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under sections 111, 112, 165, or 173 of the CAA, as now or hereafter amended, except in compliance with the requirements of such sections and Federal regulations adopted pursuant thereto. The Illinois Act further specifies that no such action shall be undertaken without a permit granted by IEPA whenever a permit is required pursuant to the Illinois Act or the implementing state regulations, or section 111, 112, 165, or 173 of the CAA or implementing Federal regulations, or in violation of any conditions imposed by such permit. Consistent with the Illinois Act, 35 Ill. Adm. Code 204.820 and 204.850 require that a source may construct or operate any source or modification subject to PSD permitting only after obtaining an approval to construct or PSD permit. IEPA would have the ability to rescind such PSD permit under 35 Ill. Adm. Code 204.1340.

As discussed in the proposed rule, and in response to comments below, EPA finds that IEPA has provided the necessary assurances that it has adequate personnel and funding to implement PSD permitting activities in Illinois, including an adequate number of full-time construction permit staff and revenue stream from permit fees to administer a PSD program in Illinois.

G. EPA Oversight Authority

In approving state NSR rules into SIPs, EPA has a responsibility to ensure that all states properly implement their SIP-approved preconstruction permitting programs. Accordingly, EPA will conduct appropriate oversight to ensure that permits issued by IEPA are consistent with the requirements of the CAA, Federal regulations, and the SIP.

EPA's authority to oversee NSR permit program implementation is set forth in sections 113 and 167 of the CAA. For example, section 167 authorizes EPA to issue administrative orders, initiate civil actions, or take whatever other action may be necessary to prevent the construction or modification of a major stationary source that does not ''conform to the requirements of'' the PSD program. Section 113(a)(1) of the CAA provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan. Likewise, section 113(a)(5) of the CAA provides for administrative orders and civil actions whenever EPA finds that a state ''is not acting in compliance with'' any requirement or prohibition of the CAA regarding the construction of new sources or modification of existing sources.

Under 40 CFR 51.166(a)(4), IEPA is obligated to review the continued adequacy of its approved SIP ''on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated.''

III. What comments did we receive on the proposed rule?

Our proposed rule provided a 30-day public comment period. *See* 86 FR at 22372. During the comment period, which closed on May 28, 2021, we received both adverse and supportive comments. We received comments in support of our proposed rule from the Illinois Environmental Regulatory Group. We received adverse consolidated comments from Earthjustice, Environmental Law & Policy Center, and Sierra Club. We respond to the adverse comments in this section.

Comment: The commenters assert that EPA cannot approve Illinois' PSD program into the SIP because IEPA has not provided necessary assurances that it will have adequate personnel, funding, and authority under State law to carry out the SIP, as required by section 110(a)(2)(E) of CAA. The commenters allege that IEPA has for many years been understaffed and under-resourced to handle its existing volume of regulatory obligations. Citing findings by EPA (including by the Office of Inspector General (OIG)) and other studies, the commenters argue that: (1) IEPA's title V program has longstanding funding and permit processing issues, including a title V permit backlog above EPA's recommended level as recently as 2017, suggesting the same issues will arise with the PSD program; (2) IEPA staff has declined since 1980 (and by nearly 50% in the Bureau of Air during the period 2003–2018); (3) there is no general fund appropriation for IEPA; and (4) delays of permit appeals at the Illinois Pollution Control Board (IPCB) suggest personnel and funding issues in that body, which would delay resolution of PSD permit appeals. The commenters allege that IEPA has not demonstrated that the staffing and resource shortages already plaguing it have been resolved, nor has it shown that IEPA or the IPCB have the sufficient staff and resources necessary to equip them to implement the PSD program. The commenters also assert that funding and staffing shortfalls place a disproportionate burden on Environmental Justice (EJ) communities by delaying the review and enforcement of noncompliance with permits for sources that are disproportionately located in EJ communities. As a result, the commenters assert that authorizing IEPA to administer the PSD program would be inconsistent with IEPA's and EPA's EJ obligations.

EPA Response: EPA acknowledges that IEPA, like many other permitting authorities, has seen staff and funding decline over the years due to reduced legislative budget allocations, facility shutdowns (particularly by large emitters such as coal-fired power plants), and other factors. However, we disagree with the commenters' assertion that IEPA has not met its burden to provide the necessary assurances that it will have adequate personnel and funding under State law to administer a SIP-approved PSD program in Illinois.[4] While CAA section 110(a)(2)(E) requires each state to provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP, it does not mandate a specific methodology for EPA to use when evaluating the adequacy of resources to implement the SIP. *See* 76 FR 42549, 42554 (July 19, 2011). The scope of this action is limited to determining whether the Illinois SIP meets certain infrastructure requirements of CAA section 110(a)(2)(E) with respect to funding and personnel for purposes of implementing the approved SIP. As discussed in the proposed rule, IEPA has issued PSD permits under the delegation agreement with EPA since 1980, and the staff of engineers and air

[4] The commenters provided no evidence to contest EPA's finding that IEPA has provided necessary assurances that it will have adequate *authority* under State law to carry out the SIP.

quality modelers who supported IEPA in its issuance of PSD permits under the delegation agreement will continue to support IEPA's issuance of PSD permits under a SIP-approved PSD program. In its submittal, IEPA stated it currently has nine full time construction permit engineers that perform construction permit activities, and that it has an adequate revenue stream from permit fees to support such activities. The commenters have not provided information that would rebut these statements from IEPA's submittal; rather, commenters provide information that is not relevant to approval of Illinois' PSD program, or that otherwise does not support commenters' allegations of inadequate personnel or funding for IEPA to implement the PSD program.

EPA's evaluation of Illinois' submittal with respect to funding and personnel is based, in part, upon various sources of funding available to the state, state statutes and rules pursuant to CAA section 110(a)(2), and IEPA's fulfillment of grant obligations. CAA section 105 grants provide monies to help support the foundation of the state's air quality program, including air monitoring, enforcement, and SIP development. States are required to provide matching monies to receive their grant, and EPA evaluates the performance of the State each year. As of fiscal year 2020, Illinois has satisfactorily completed its air program obligations as called for under the CAA section 105 grant, including meeting specific measures related to NSR program implementation and maintenance of an EPA-approved statewide air quality surveillance network required by section 110(a)(2)(B) of the CAA.

To the extent the commenters address the adequacy of personnel or funding for Illinois' title V program, they are addressing issues that are subject to statutory and regulatory evaluation that are beyond the scope of this rulemaking. CAA section 110(a)(2) falls under title I of the CAA and governs the implementation, maintenance, and enforcement of the NAAQS through the SIP. CAA section 110 and 40 CFR part 51 provide mechanisms for programmatic remedies with respect to the SIP. Title I also addresses NSR preconstruction permits for new or modified minor and major sources. The title V program, by contrast, governs operating permits for existing sources and is addressed by CAA sections 502 through 507. Any evaluation of the title V program and any consequent programmatic remedies must be done pursuant to CAA section 502 and 40 CFR part 70.

Title V programs are generally not part of the SIP, and thus are not part of the requirements of CAA section 110(a)(2); moreover, CAA section 502(b)(3) requires not only that title V program fees cover the reasonable direct and indirect costs of developing and administering the title V program, but also requires that the fees be used only to cover those costs. *See* 76 FR 43906, 43910 (July 22, 2011) and 79 FR 62042, 62045 (Oct. 16, 2014). Due to the distinct and self-administering nature of the title V program, we disagree that alleged flaws in Illinois' title V program would prevent EPA from approving a SIP submittal under CAA section 110(a)(2).[5]

Commenters rely on a 2019 study of funding and staffing issues at the IEPA, including in the Bureau of Air, to suggest that the decline in IEPA staff since 1980 would compromise implementation of an approved Illinois PSD program.[6] We noted earlier in this section the specific staff allocation that IEPA made in its submittal for implementing the PSD program. In addition, since the 2019 study was published, staff in IEPA's Bureau of Air has increased from 157 to an estimated 167 (with 190 targeted for FY 2021), and the enacted appropriation for the Bureau of Air has increased from $88,964,000 in FY 2019 to $140,825,800 in FY 2020 (with $156,808,200 proposed for FY 2021).[7]

If, in the future, EPA determines that Illinois does not have adequate personnel or funding to carry out its SIP, or for any other reason fails to meet any requirement of its approved SIP, then EPA may exercise its authority pursuant to CAA sections 110(a)(2)(E), 179, or 110(k)(5) to impose sanctions and other remedies on the State as allowed by the CAA. The action that EPA is taking here does not limit EPA's authority pursuant to those CAA sections. *See also* 77 FR 58955, 58957–8 (Sept. 25, 2012).

With respect to the concerns regarding the IPCB, the commenters have provided no information for EPA to conclude that personnel or funding shortfalls have contributed to delays in IPCB permit appeal proceedings. There are many factors that could have resulted in lengthy permit appeal proceedings (including filing of motions for delays by the appellant or responding party). One such factor, discussed in EPA's 2017 Review, was that the IPCB formerly would stay title V permits in their entirety during an appeals process.[8] In 2010, Illinois enacted legislation allowing the IPCB to stay the effectiveness of any or all uncontested conditions of a title V permit if the IPCB determines that the uncontested conditions would be affected by its review of contested conditions. *See* 415 ILCS 5/40.2(f). As a result of this legislation, as well as IEPA's efforts to resolve appeals and issue affected permits, the number of unresolved appeals has decreased significantly since 2005.

Finally, EPA is committed to advancing EJ and incorporating equity considerations into all aspects of our work, including ongoing development of practices to better assess and consider impacts to pollution-burdened communities in our analysis, permitting, and enforcement activities. At this time EPA does not have, nor did commenters provide, information that would suggest that approval of Illinois' PSD program has the potential to result in disproportionately high and adverse human health or environmental impacts on vulnerable populations or overburdened communities; however, EPA is also not currently in a position to make a determination to this effect. As we work to define EJ best practices at EPA, we will continue to work with IEPA and other stakeholders to ensure that robust analyses are conducted to assess the full EJ implications of siting individual facilities in communities already overburdened by pollution.

Comment: The commenters object to IEPA removing the requirement that limits on the potential to emit (PTE) taken to avoid major NSR must be ''federally enforceable''; IEPA would instead require such limits to be ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.'' 35

[5] In criticizing Illinois' title V program, commenters rely in part on EPA's Review of Illinois Environmental Protection Agency's New Source Review and Title V Permit Programs (Sept. 2017) (the ''2017 Review''). That review noted several improvements in IEPA's processing of PSD permits, including that it had been ''issuing all PSD permits within 180 days of receiving a complete application, well within the timeframe required by EPA's rules'' and had ''entered into the [RACT/BACT/LAER Clearinghouse] all BACT/LAER determinations for issued and effective permits.'' 2017 Review at 5, 7.

[6] *See* Mark Templeton *et al., Protecting the Illinois EPA's Health, so that It Can Protect Ours* (Nov. 2019), *available at https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1000&context=abrams.*

[7] *See* Ill. Office of Mgmt. & Budget, Exec. Office of the Governor, Ill. State Operating Budget, Fiscal Year 2021, *available at https://www2.illinois.gov/sites/budget/Documents/Budget%20Book/FY2021-Budget-Book/Fiscal-Year-2021-Operating-Budget-Book.pdf.* This is consistent with EPA's previous finding that ''IEPA has made improvements to its permit issuance timeliness through various efforts, including . . . additional staffing.'' 2017 Review at 11.

[8] *See* 2017 Review at 21.

Ill. Adm. Code 204.560 (definition of ''potential to emit''). The commenters assert that, if accepted into the SIP, this would allow IEPA to issue minor NSR permits without public notice and an opportunity for public comment because a source could be minor solely on the basis of State-enforceable restrictions on PTE. Specifically, the commenters assert that the Illinois rules governing the categories of permits subject to public comment before issuance (35 Ill. Adm. Code 252.104 and 252.201) include sources that would be major sources except for their federally enforceable restrictions, but do not include sources that would be major except for state or locally enforceable restrictions. This, the commenters allege, means that IEPA could issue permits establishing PTE limits without public notice and an opportunity for comment. The commenters allege that eliminating the requirement for an opportunity for public comment on draft PTE limits would violate EPA's minor NSR regulations at 40 CFR 51.161.

EPA Response: We disagree with the commenters. First, as discussed in the proposed rule, IEPA's proposed revision of the PTE definition at 35 Ill. Adm. Code 204.560 is consistent with past court decisions and related EPA guidance that establish that the term ''potential to emit'' must encompass all legally enforceable emission limitations that restrict a source's emissions. In *Chemical Manufacturers Association* v. *EPA,* 70 F. 3d 637 (D.C. Cir. 1995) and *National Mining Association* v. *EPA,* 59 F.3d 1351, 1362–63 (D.C. Cir. 1995), the term ''federally enforceable'' was vacated in the definition of PTE (*e.g.,* 40 CFR 51.166(b)(4)), and in subsequent memoranda, EPA stated it interpreted the term ''federally enforceable'' to mean ''federally enforceable *or* legally and practicably enforceable by a state or local air pollution control agency'' (emphasis added).[9] The memoranda reiterate EPA's earlier guidance on permit conditions restricting potential to emit that are enforceable as a practical matter. For example, practicable enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance, including appropriate monitoring, recordkeeping, and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit.[10] IEPA's PTE definition is consistent with the relevant court decisions and EPA's interpretation of those decisions, requiring the limits to be ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.'' It is therefore appropriate for Illinois to use that phrase in place of ''federally enforceable'' alone.

Second, although Illinois' notice and comment procedures for synthetic minor NSR sources are beyond the scope of this action, IEPA cannot avoid notice and comment on a synthetic minor NSR permit for a source that has taken State-enforceable restrictions on PTE. Under CAA section 110(a)(2)(C), State minor NSR programs approved under the SIP, and the permits issued thereunder, are always federally enforceable. *See also* 40 CFR 52.23 and CAA section 113(b)(1).[11] Under 35 Ill. Adm. Code 252.104 and 252.201, in addition to providing public notice for major NSR and title V permit actions, IEPA must provide public notice for the planned issuance of the following minor NSR permits: Permits for the construction of a source or a modification of a source that would constitute a new major stationary source or a major modification of a major stationary source, if the source or modification were not accompanied by contemporaneous emissions decreases or if federally enforceable significant restrictions were not placed on the source or modification by the permit; permits to operate sources that contain federally enforceable conditions, including permits that exclude sources from the applicability of the permitting requirements described in 35 Ill. Adm. Code 252.104(a)(1), (a)(2) or (a)(5); and permits for the construction of a source of public interest or emission units of public interest at a source, the criteria for which are outlined in 35 Ill. Adm. Code 252.104(b). Thus, as relevant to synthetic minor NSR permits, IEPA's regulations do not provide any exemption from public notice and comment for permits for new sources or modifications that would be major sources or major modifications but accept enforceable restrictions on PTE such that the new source or modification becomes a minor source. Consistent with CAA section 110(a)(2)(C), the PTE definition in 40 CFR 51.166(b)(4) and IEPA's public participation requirements at 35 Ill. Adm. Code 252.104(a)(3), (a)(6) and 252.201(a), permits for such sources or modifications must be public noticed regardless of the new level of allowable emissions (after taking into account the federally enforceable restrictions on emissions or any contemporaneous emissions decreases). For these reasons, IEPA cannot avoid notice and comment on synthetic minor NSR permits for sources accepting only State-enforceable restrictions on PTE.

Although not a condition of this approval, EPA expects IEPA to implement the PTE definition in a manner that is consistent with the courts' decisions, IEPA's PTE definition in 35 Ill. Adm. Code 204.560 and the public participation requirements in 35 Ill. Adm. Code 252.104 and 252.201, and EPA rules as discussed above. IEPA's enforcement program must continue to provide sufficient incentive for sources to comply with permit limits. Permit limits must be enforceable as a practical matter (*i.e.,* practicably enforceable), and PTE limits must be subjected to appropriate public notice and comment consistent with 40 CFR 51.161 and IEPA's SIP-approved public participation regulations. If, in the future, IEPA does not implement its PTE definition consistent with its SIP-approved regulations or the CAA and its implementing regulations (including, but not limited to, not public noticing PTE limits or establishing limits that are not practicably enforceable), EPA could find that IEPA has failed to adequately administer or enforce its PSD program and may take action to notify IEPA of such a finding as authorized by sections 110(a)(2)(E), 179, or 110(k)(5) of the CAA.

Further, in response to a recent report by the OIG regarding EPA's oversight of synthetic minor permits, EPA has committed to identifying state, local, and tribal agencies whose program regulations, including but not limited to, minor NSR and federally enforceable state operating permit program

[9] *See, e.g.,* Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit at 3–4 (Jan. 22, 1996), *available at https://www.epa.gov/sites/default/files/2015-07/documents/pottoemi.pdf.*

[10] *See* Memorandum entitled, ''Guidance on Limiting Potential to Emit in New Source Permitting,'' from Terrell F. Hunt, Associate Enforcement Counsel, Office of Enforcement and Compliance Assurance (OECA), and John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), to EPA Regional Offices (Jun. 13, 1989), and Memorandum entitled, ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, ORE to Regional Air Directors (Jan. 25, 1995).

[11] *See also* Federal Enforceability of State's Existing Minor New Source Review (NSR) Programs (Nov. 2, 1994), available at *https://www.epa.gov/nsr/federal-enforceability-states-existing-minor-new-source-review-nsr-programs.*

regulations and corresponding practices, do not meet the public participation requirements contained in the applicable EPA regulations, *e.g.,* 40 CFR 51.161.[12] For the identified agencies, EPA expects to take appropriate corrective steps, which may include constructive, informal, and formal engagement with those agencies.

IV. What action is EPA taking?

A. Scope of EPA Action

EPA is approving revisions to the Illinois SIP that IEPA submitted on September 22, 2020 and amended on November 5, 2020, and March 3, 2021. These revisions implement the PSD preconstruction permitting regulations for certain new or modified sources in attainment and unclassifiable areas. Currently, the PSD program in Illinois is operated under the FIP incorporating 40 CFR 52.21. EPA is approving IEPA's PSD regulations contained in 35 Ill. Adm. Code Parts 204 and 252 to apply statewide, except in Indian reservations.

EPA is excluding from the scope of this final approval all Indian reservations in the State, and any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. For the facilities in these geographic areas, the PSD FIP incorporating 40 CFR 52.21 will continue to apply and EPA will retain responsibility for issuing permits affecting such sources.

B. Rules Approved and Incorporated by Reference Into the SIP

EPA approves into the Illinois SIP at 40 CFR 52.720, the following regulations: 35 Ill. Adm. Code 203.207 ''Major Modification of a Source'' and 35 Ill. Adm. Code Part 204 ''Prevention of Significant Deterioration,'' effective September 4, 2020; and 35 Ill. Adm. Code Part 252 ''Public Participation in the Air Pollution Control Program'', except 35 Ill. Adm. Code sections 252.301 and 252.401, effective June 10, 2020.

C. Transfer of Authority for Existing EPA-Issued PSD Permits

Since April 7, 1980, IEPA has had full delegation to implement the PSD permitting program under the FIP. 46 FR 9580 (Jan. 29, 1981). Thus, PSD permits issued by IEPA on or after April 7, 1980, were issued under both state and EPA authority. Prior to delegation of the PSD permitting program to IEPA on April 7, 1980, EPA issued several PSD permits for sources in Illinois.[13] In an April 14, 1982 amendment to the terms of the 1980 delegation agreement, EPA delegated to IEPA the authority to amend or to revise any permits that had been previously issued by EPA.

In this action, EPA is granting IEPA authority to fully administer the PSD program with respect to those sources under IEPA's permitting jurisdiction that have existing PSD permits issued solely by EPA on or before April 7, 1980. This includes authority to conduct general administration of these existing permits, authority to process and issue any subsequent PSD permit actions relating to such permits (*e.g.,* modifications, amendments, or revisions of any nature), and authority to enforce such permits. IEPA has demonstrated adequate authority to enforce and modify these permits.

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate,

[12] *See https://www.epa.gov/system/files/documents/2021-07/_epaoig_20210708-21-p-0175.pdf.*

[13] EPA issued at least 18 such permits; however, some of the affected facilities may no longer exist. The full listing of these facilities is available in the docket for this action.

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 30, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.720, the table in paragraph (c) is amended by:

■ a. Revising the entry ''203.207'' under the heading ''Subpart B: Major Stationary Sources in Nonattainment Areas''.

■ b. Adding, in alphanumeric order after the entry ''203.801'':

■ i. The headings ''Part 204: Prevention of Significant Deterioration'' and ''Subpart A: General Provisions'' and the entries ''204.100'', ''204.110'', and ''204.120'';

■ ii. The heading ''Subpart B: Definitions'' and the entries ''204.200'', ''204.210'', ''204.220'', ''204.230'', ''204.240'', ''204.250'', ''204.260'', ''204.270'', ''204.280'', ''204.290'', ''204.300'', ''204.310'', ''204.320'', ''204.330'', ''204.340'', ''204.350'', ''204.360'', ''204.370'', ''204.380'', ''204.390'', ''204.400'', ''204.410'', ''204.420'', ''204.430'', ''204.440'', ''204.450'', ''204.460'', ''204.470'', ''204.480'', ''204.490'', ''204.500'', ''204.510'', ''204.520'', ''204.530'', ''204.540'', ''204.550'', ''204.560'', ''204.570'', ''204.580'', ''204.590'', ''204.600'', ''204.610'', ''204.620'', ''204.630'', ''204.640'', ''204.650'', ''204.660'', ''204.670'', ''204.680'', ''204.690'', ''204.700'', and ''204.710'';

■ iii. The heading ''Subpart C: Major Stationary Sources in Attainment and Unclassifiable Areas'' and the entries ''204.800'', ''204.810'', ''204.820'', ''204.830'', ''204.840'', ''204.850'', and ''204.860'';

■ iv. The heading ''Subpart D: Increment'' and the entries ''204.900'', ''204.910'', ''204.920'', and ''204.930'';

■ v. The heading ''Subpart E: Stack Heights'' and the entry ''204.1000'';

■ vi. The heading ''Subpart F: Requirements for Major Stationary Sources and Major Modifications in Attainment and Unclassifiable Areas'' and the entries ''204.1100'', ''204.1110'', ''204.1120'', ''204.1130'', and ''204.1140'';

■ vii. The heading ''Subpart G: Additional Requirements for Class I Areas'' and the entry ''204.1200'';

■ viii. The heading ''Subpart H: General Obligations of the Illinois Environmental Protection Agency'' and the entries ''204.1300'', ''204.1310'', ''204.1320'', ''204.1330'', and ''204.1340'';

■ ix. The heading ''Subpart I: Nonapplicability Recordkeeping and Reporting'' and the entry ''204.1400'';

■ x. The heading ''Subpart J: Innovative Control Technology'' and the entry ''204.1500''; and

■ xi. The heading ''Subpart K: Plantwide Applicability Limitation'' and the entries ''204.1600'', ''204.1610'', ''204.1620'', ''204.1630'', ''204.1640'', ''204.1650'', ''204.1660'', ''204.1670'', ''204.1680'', ''204.1690'', ''204.1700'', ''204.1710'', ''204.1720'', ''204.1730'', ''204.1740'', ''204.1750'', ''204.1760'', ''204.1770'', ''204.1780'', ''204.1790'', ''204.1800'', ''204.1810'', ''204.1820'', ''204.1830'', ''204.1840'', ''204.1850'', ''204.1860'', ''204.1870'', ''204.1880'', ''204.1890'', ''204.1900'', and ''204.1910''.

■ c. Removing the heading ''Part 252: Public Participation in the Air Pollution Permit Program for Major Sources in Nonattainment Areas'' and adding the heading ''Part 252: Public Participation in the Air Pollution Control Permit Program'' in its place.

■ d. Revising the entries ''252.101'', ''252.102'', and ''252.103''.

■ e. Adding entries ''252.104'', ''252.105'', and ''252.106'' in numerical order.

■ f. Revising entries ''252.201'', ''252.202'', ''252.203'', and ''252.204''.

■ g. Adding entries ''252.205'', ''252.206'', ''252.207'', ''252.208'', ''252.209'', ''252.210'', and ''252.211'' in numerical order.

The additions and revisions read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 203: Major Stationary Sources Construction and Modification				
*	*	*	*	*
Subpart B: Major Stationary Sources in Nonattainment Areas				
*	*	*	*	*
203.207	Major Modification of a Source.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES—Continued

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 204: Prevention of Significant Deterioration Subpart A: General Provisions				
204.100	Incorporations by Reference.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.110	Abbreviations and Acronyms.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.120	Severability	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart B: Definitions				
204.200	Definitions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.210	Actual Emissions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.220	Adverse Impact on Visibility.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.230	Allowable Emissions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.240	Baseline Actual Emissions.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.250	Baseline Area	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.260	Baseline Concentration	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.270	Begin Actual Construction	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.280	Best Available Control Technology (BACT).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.290	Building, Structure, Facility, or Installation.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.300	Clean Coal Technology	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.310	Clean Coal Technology Demonstration Project.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.320	Commence	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.330	Complete	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.340	Construction	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.350	Dispersion Technique	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.360	Electric Utility Steam Generating Unit.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.370	Emissions Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.380	Excessive Concentration	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.390	Federal Land Manager	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.400	Federally Enforceable	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.410	Fugitive Emissions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.420	Good Engineering Practice.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.430	Greenhouse Gases (GHGs).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.440	High Terrain	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.450	Indian Reservation	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.460	Indian Governing Body	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.470	Innovative Control Technology.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES—Continued

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
204.480	Low Terrain	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.490	Major Modification	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.500	Major Source Baseline Date.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.510	Major Stationary Source	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.520	Minor Source Baseline Date.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.530	Nearby	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.540	Necessary Preconstruction Approvals or Permits.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.550	Net Emissions Increase	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.560	Potential to Emit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.570	Prevention of Significant Deterioration (PSD) Permit.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.580	Process Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.590	Project	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.600	Projected Actual Emissions.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.610	Regulated NSR Pollutant	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.620	Replacement Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.630	Repowering	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.640	Reviewing Authority	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.650	Secondary Emissions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.660	Significant	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.670	Significant Emissions Increase.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.680	Stack in Existence	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.690	Stationary Source	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.700	Subject to Regulation	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.710	Temporary Clean Coal Technology Demonstration Project.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart C: Major Stationary Sources in Attainment and Unclassifiable Areas				
204.800	Applicability	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.810	Source Information	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.820	Source Obligation	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.830	Permit Expiration	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.840	Effect of Permits	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.850	Relaxation of a Source-Specific Limitation.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.860	Exemptions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES—Continued

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
Subpart D: Increment				
204.900	Ambient Air Increments	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.910	Ambient Air Ceilings	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.920	Restrictions on Area Classifications.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.930	Redesignation	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart E: Stack Heights				
204.1000	Stack Heights	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart F: Requirements for Major Stationary Sources and Major Modifications in Attainment and Unclassifiable Areas				
204.1100	Control Technology Review.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1110	Source Impact Analysis	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1120	Air Quality Models	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1130	Air Quality Analysis	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1140	Additional Impact Analyses.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart G: Additional Requirements for Class I Areas				
204.1200	Additional Requirements for Sources Impacting Federal Class I Areas.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart H: General Obligations of the Illinois Environmental Protection Agency				
204.1300	Notification of Application Completeness to Applicants.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1310	Transmittal of Application to USEPA.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1320	Public Participation	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1330	Issuance Within One Year of Submittal of Complete Application.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1340	Permit Rescission	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart I: Nonapplicability Recordkeeping and Reporting				
204.1400	Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart J: Innovative Control Technology				
204.1500	Innovative Control Technology.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart K: Plantwide Applicability Limitation				
204.1600	Applicability	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1610	Definitions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1620	Actuals PAL	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES—Continued

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
204.1630	Allowable Emissions	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1640	Continuous Emissions Monitoring System (CEMS).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1650	Continuous Emissions Rate Monitoring System (CERMS).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1660	Continuous Parameter Monitoring System (CPMS).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1670	Lowest Achievable Emission Rate (LAER).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1680	Major Emissions Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1690	Plantwide Applicability Limitation (PAL).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1700	PAL Effective Date	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1710	PAL Effective Period	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1720	PAL Major Modification	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1730	PAL Permit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1740	PAL Pollutant	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1750	Predictive Emissions Monitoring System (PEMS).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1760	Reasonably Achievable Control Technology (RACT).	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1770	Significant Emissions Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1780	Small Emissions Unit	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1790	Permit Application Requirements.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1800	General Requirements for Establishing PAL.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1810	Public Participation Requirements.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1820	Setting the 10-Year Actuals PAL Level.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1830	Contents of the PAL Permit.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1840	Effective Period and Reopening a PAL Permit.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1850	Expiration of a PAL	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1860	Renewal of a PAL	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1870	Increasing the PAL During the PAL Effective Period.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1880	Monitoring Requirements	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1890	Recordkeeping Requirements.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1900	Reporting and Notification Requirements.	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	
204.1910	Transition Requirements	9/4/2020	September 9, 2021, [Insert **Federal Register** citation].	

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES—Continued

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
*	*	*	*	*
Part 252: Public Participation in the Air Pollution Control Permit Program Subpart A: Introduction				
252.101	Purpose	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.102	Abbreviations and Acronyms.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.103	Definitions	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.104	Applicability	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.105	Application for a PSD Permit.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.106	Consolidation	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
Subpart B: Procedures for Public Review				
252.201	Notice and Opportunity to Comment.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.202	Draft Permit	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.203	Project Summary, Statement of Basis, or Fact Sheet.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.204	Availability of Documents	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.205	Opportunity for Public Hearing.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.206	Procedures for Public Hearings.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.207	Obligation to Raise Issues and Provide Information During the Public Comment Period for PSD Permits.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.208	Reopening of the Public Comment Period for PSD Permits.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.209	Issuance of a Final PSD Permit Decision.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.210	Response to Comments for a Final PSD Permit Decision.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
252.211	Administrative Record for a Final PSD Permit Decision.	6/10/2020	September 9, 2021, [Insert **Federal Register** citation].	
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■ 3. In § 52.738, revise paragraphs (a) and (b) to read as follows:

§ 52.738 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are met, except for sources seeking permits to locate in Indian reservations within the State of Illinois, and any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

(b) The provisions of § 52.21 except paragraph (a)(1) are hereby incorporated and made a part of the applicable State plan for the State of Illinois for sources seeking permits to locate in Indian reservations or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction.

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[FR Doc. 2021–19234 Filed 9–8–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2020–0614; FRL–8817–01–R4]

Tennessee: Final Approval of State Petroleum Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.