

Illinois Environmental Protection Agency
Bureau of Air
Permit Section

2015

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Responsiveness Summary for the
Significant Modification of the
Clean Air Act Permit Program (CAAPP) Permit Issued to
Midwest Generation, LLC for the
Powerton Generating Station
Pekin, Illinois

Source I.D. No.: 179801AAA
Permit No.: 95090074

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A. DECISION

On October 15, 2015, the Illinois EPA issued a revised Clean Air Act Permit Program (CAAPP) permit to Midwest Generation, LLC, for the Powerton Generating Station (Powerton Station).

B. BACKGROUND

The Powerton Station is a coal-fired electric power plant owned and operated by Midwest Generation. The plant has four coal-fired boilers that produce steam that is then used to generate electricity. The Powerton Station qualifies as a major source of emissions under Illinois' Clean Air Act Permit Program (CAAPP).

The CAAPP is Illinois' operating permit program for sources of emissions pursuant to Title V of the federal Clean Air Act. The CAAPP is administered by the Illinois EPA. It generally requires that the owner or operator of a major stationary source of emissions in Illinois apply for and obtain a CAAPP permit for the operation of such source. CAAPP permits contain conditions identifying applicable air pollution control requirements under the federal Clean Air Act and Illinois' Environmental Protection Act (Act). Compliance procedures, including testing, monitoring, recordkeeping and reporting requirements, are also established as required or necessary to assure compliance and accomplish the purposes of the CAAPP. The conditions of a CAAPP permit are enforceable by the Illinois EPA, USEPA and the public.

The Illinois EPA issued the initial CAAPP permit for the Powerton Station on September 29, 2005. Midwest Generation appealed this permit to Illinois' Pollution Control Board (Board), contending that a number of conditions in the permit were erroneous or unwarranted. On February 16, 2006, the Board accepted Midwest Generation's petition for appeal and granted an administrative stay of the issued CAAPP permit in its entirety.

Midwest Generation and the Illinois EPA, with the assistance of the Office of the Illinois Attorney General, have successfully undertaken discussions to resolve or settle this appeal. There are three steps in the process for the settlement of the appeal that have been agreed to by the Illinois EPA and Midwest Generation.

The initial step to achieving the goal of having the Powerton Station addressed by and subject to an appropriate CAAPP permit was initiated with the notice of the draft revised permit for public comment and hearing, followed by review of a proposed revised CAAPP permit by USEPA. The implementation of these procedures, which are reflected in the CAAPP's requirements for a significant permit modification, must be fulfilled in order to resolve, consistent with the terms of the parties' settlement, the more substantive appeal points raised in the administrative appeal. Minor points of the appeal are being addressed in parallel permit proceedings, as discussed below. The Statement of Basis supports the planned permitting action for those challenged

conditions of the CAAPP permit that can be appropriately addressed using the significant modifications procedures of the CAAPP.

The second step will be completed following completion of procedures addressed in the initial step but prior to actual issuance of a revised CAAPP permit. The Illinois Attorney General and Midwest Generation intend to file a joint motion with the Illinois Pollution Control Board (Board) requesting that the administrative stay be partially lifted to allow for modification of the initial CAAPP permit. The joint motion will also include a request for remand of the permit to the Illinois EPA so that it can be dated to reflect a full five-year term, as required under the CAAPP. Contemporaneous with the dating of the initial CAAPP permit, the Illinois EPA will issue the significant modification of the permit and parallel administrative and minor modifications to the initial permit. Upon issuance of the revised CAAPP permit, Midwest Generation can subsequently seek dismissal of its appeal currently pending before the Board.

Because a significant modification of this CAAPP permit triggered the applicable requirements of USEPA's rules for Compliance Assurance Monitoring (CAM), 40 CFR Part 64, Midwest Generation submitted the information required by these rules, including a "Compliance Assurance Monitoring Plan" (CAM Plan) for the coal-fired boilers at the Powerton Station for emissions of particulate matter (PM). Along with the modifications to the initial CAAPP permit that were made as part of resolution of the appeal, other appropriate conditions have been added in the revised permit to address CAM.

The third step in the settlement of the appeal will be the formal reopening of the CAAPP permit for the Powerton Station using the procedures for reopening of CAAPP permits. In this final step, new requirements under the Clean Air Act that have been adopted since the initial permit was issued, which are now applicable to Powerton Station, will be added to the permit.¹

C. OPPORTUNITY FOR PUBLIC COMMENTS

The issuance of this modified permit was preceded by a public comment period, in accordance with Section 39.5(8) of the Act and 35 IAC Part 252. A draft of the modified permit and the accompanying Statement of Basis prepared by the Illinois EPA were available at the Pekin Public Library and the Illinois EPA's Headquarters in Springfield for review by the public. This comment period began on February 25, 2015. A public hearing was held at 7:00 PM on April 27, 2015 at the Peoria Park District's Gateway Building on Northeast Water Street in Peoria. The comment period ended on May 27, 2015.

In addition to oral comments made at the hearing, written comments on the planned issuance of a revised permit were jointly submitted on May

¹ New applicable requirements for the Powerton Station will include, but not be limited to, newly adopted rules such as the Cross State Air Pollution Rule (CSAPR) and the Mercury and Air Toxics Standards (MATS), any issued construction permits and other requirements as determined at the time of the reopening to be applicable requirements.

27, 2015 by the Environmental Law and Policy Center, Natural Resources Defense Council, Respiratory Health Association, and Sierra Club (Public Comments). The USEPA also submitted written comments on May 15, 2015. The Illinois EPA responses to these oral and written comments are provided in this document.

D. AVAILABILITY OF DOCUMENTS

Copies of this responsiveness summary and the revised CAAPP permit that has been issued are being made available for viewing by the public at the Illinois EPA's Headquarters at 1021 North Grand Avenue East in Springfield and at the Pekin Public Library, 3524 Court Street in Pekin. Copies are also available electronically at www.epa.illinois.gov/public-notices and www.epa.gov/region5/air/permits/ilonline.html. Printed copies of these documents are also available free of charge by contacting Brad Frost at the Illinois EPA's Office of Community Relations by telephone (888/372-1996 - Toll Free Environmental Helpline; 217/782-7027 - desk line; or 217/782-9143 - TDD), by facsimile (217/524-5023) or by email to Brad.Frost@illinois.gov.

E. WRITTEN PUBLIC COMMENTS WITH RESPONSES BY THE ILLINOIS EPA

Comment I (page 2) -
Procedural Flaw

There are serious deficiencies with the process that the Illinois EPA has undertaken to issue a legally functional CAAPP permit for the Powerton Station. In this case, Illinois EPA is proposing to put into place until 2020 a CAAPP permit that omits many legally applicable requirements, based on an application submitted almost *twenty* years ago and an initial permit that should have expired in 2010, five years after it was first issued. This has left unacceptable gaps in the permit's conditions. The Statement of Basis notes that the USEPA expressed concern in a similar CAAPP permit appeal that Illinois EPA's stated intent to reopen the permit "lacks a sufficiently enforceable commitment."

I share USEPA's concern. Illinois EPA's statement that it "considers the reopening provision to constitute an unambiguous statutory duty on the part of [Illinois EPA] that is fully enforceable under the CAAPP" addresses but does not fully resolve that concern. The Illinois EPA has, to date, finalized significant modifications to Title V permits for three Illinois coal-fired power plants—the Coffeen Energy Center, CWLP plant and the Kincaid Energy Center—that, like the Powerton Station CAAPP permit, had been stayed before the Board since 2006. Illinois EPA has not yet completed the promised process of permit reopening for any of those permits. Illinois EPA's implementation of the Title V program for the State's coal-fired power plants remains seriously deficient. A more appropriate process for the Powerton Station would have been a full-scale permit renewal. A permit renewal would have been more consistent with and supported by the Illinois SIP

and the timelines provided by Title V of the Clean Air Act, 42 USC 7661b.

Response:

The Illinois EPA's objective in this permitting action has been to achieve permit effectiveness and resolve the related CAAPP permit appeal for the Powerton Station. The legal process for doing so is set forth in the CAAPP's procedures, which the Illinois EPA is obligated to follow. The Illinois EPA disagrees that there are deficiencies with the process set forth in the applicable laws and rules. However, if any such deficiencies with the process exist, it is a product of the statutory and/or regulatory framework of the CAAPP permitting program, which largely derives from the Clean Air Act and federal regulations implementing the same, and cannot be cured by way of this permitting action.

As explained in the Statement of Basis that accompanied the draft revised CAAPP permit, the Illinois EPA did exercise limited discretion in choosing between the procedures available under CAAPP to accomplish the goals identified above. To be more specific, the Illinois EPA declined to initiate a comprehensive review of the initial CAAPP permit, as doing so would have delayed resolution of the appeals and prolonged the period during which the Powerton Station would continue to operate without an effective CAAPP permit.² It would also have been repetitious for a large body of the permit that was not challenged in the appeal. The Illinois EPA quickly concluded that the permit renewal process, as suggested by the comment, would not be viable. Permit renewal is not a legal option in the present circumstances, as this process is available after an initial CAAPP permit has been issued and taken effect.³

The Illinois EPA opted instead to use the CAAPP's modification procedures to make the CAAPP permit for the Powerton Station effective and to resolve the related appeal. This decision reflected a considered judgment of the Illinois EPA and Attorney General's Office. Further, in recognizing that the initial, 2005 permit does not currently reflect recent regulatory developments, the Illinois EPA has committed to reopen the permit to incorporate Clean Air Act requirements that have become applicable to the source since 2005 when the initial permit was issued.⁴ Although those requirements have been and will continue to be independently enforceable, the permit reopening that will include those requirements in the CAAPP permit responds to the concern expressed in this comment regarding perceived gaps in the CAAPP permit.

Comment III -

² The procedure that has been followed has produced an effective CAAPP permit for the Powerton Station. This would still not have occurred if a "renewal" had been pursued as suggested by this comment.

³ As a result of the stay of the initial CAAPP permit, the initial CAAPP permit did not become effective necessitating the procedures used by the Illinois EPA.

⁴ Condition 5.9 of the revised CAAPP permit provides that the "The Permittee shall promptly submit information to assist the Illinois EPA in a reopening of the CAAPP permit in accordance with Section 39.5(15) (a) (i) of the Act and 35 IAC 270.503(a) (1)..."

The Proposed CAM Plan is Inadequate to Assure Compliance.

The Powerton Station has four coal-fired utility boilers. Condition 7.1.4(b) subjects these boilers to an hourly average particulate matter ("PM") emission limit of 0.10 pounds per million Btu (lb/mmBtu) of actual heat input. This is the limit pursuant to 35 IAC 212.202, which is included in Illinois' State Implementation Plan ("SIP").

As noted in the Statement of Basis, the CAM rule in 40 CFR Part 64 is applicable to the boilers' PM emissions due to Midwest Generation's submission of an application for significant modification of conditions related to the Boilers. (See Statement of Basis at 7) (citing 40 CFR 64.5(a)(2)). The proposed Significant Modification includes a new Condition 7.1.13-1, which includes Illinois EPA's conditional approval of a CAM plan proposed by Midwest Generation and set out in Table 7.1.13. The proposed CAM plan would require monitoring of the operation of the PM control device: the electrostatic precipitators ("ESPs") on the boilers. (See Table 7.1.13) ("Opacity less than [*]% averaged over a 3 hour block period is an indicator of proper ESP operation and provides reasonable assurance of meeting the 0.10 lb/mmBtu PM limit.").

The sole proposed indicator for the proper operation of the ESPs is the opacity in the flue gas streams in the two stacks for the boilers.⁵ The opacity of the flue gas stream is measured by a continuous opacity monitoring system ("COMS") installed in the stack. Illinois EPA proposes that the indicator range, in order to provide a reasonable assurance of compliance, be based on the percentage of opacity measured by the COMS, averaged over three-hour block periods. (See, Draft Revised CAAPP Permit, Table 7.1.13a.). The proposed plan does not specify the percentage of opacity that would trigger responsive actions for the Boilers, but instead requires Midwest Generation to perform "PM emissions testing" within 120 days of the issuance of the revised permit, and then submit an application for a proposed modification "to incorporate information for the opacity derived from testing." (Conditions 7.1.13-1(a), (b)(1) and (b)(2)). The permit does not specify how opacity is to be correlated with PM emissions, though. According to the Statement of Basis:

[T]esting for PM emissions will be conducted to determine appropriate indicator ranges for assuring compliance with the PM emissions limit under various operating conditions for the boilers. Testing will determine the upper limit of opacity, as measured in the flue gas stream, which assures compliance with the PM limit. Statement of Basis at 52.

There are two central problems with the CAM plan's proposed approach to monitoring the operation of the ESPs for the coal-fired boilers at the Powerton Station. First, the CAM plan does not reflect an

⁵ One stack serves two boilers (Boilers BLR 51 and 52) and one stack serves the other two boilers (Boilers 61 and 62). Each pair of boilers and its associated steam turbine generator constitute an Electric Generating Unit (EGU).

acceptable procedure for setting an opacity indicator range to assure proper operation of the ESP. Second, the CAM plan does not include monitoring of any other parameters of ESP performance.

Response:

The CAM Plan submitted by Midwest Generation satisfies the criteria and requirements in 40 CFR 64.3 for the plan to be "conditionally" approved in accordance with 40 CFR 64.6(b). In particular, these comments do not demonstrate the parameter chosen (opacity) and the future establishment of a corresponding indicator range fails to fulfill the criteria in 40 CFR 64.3(a) for CAM Plans. In addition, this comment does not show that the CAM Plan submitted by Midwest Generation for the coal-fired boilers at the Powerton Station is not "conditionally approvable."

In addition, 40 CFR Part 64 does not compel all sources to identify a "procedure" or "procedures" in developing an indicator range for opacity or other selected indicators of emission control performance. The CAM rule generally provides that a source must establish "an appropriate range(s)" for an indicator in accordance with designated objectives in 40 CFR 64.3(a)(2) and the requirements and criterion of 40 CFR 64.3(a)(2) and (3). In accordance with 40 CFR 63.4(d)(1), Midwest Generation has submitted a test plan and schedule for obtaining data to fulfill the operating parameter data requirement from emissions testing under 40 CFR 64.4(c)(1). This test plan and enforceable schedule is included in the permit as Conditions 7.1.13-1 of the revised permit. A separate provision in the CAM rules addressing the submission of "procedures for establishing indicator ranges" is not applicable, as the source has opted to rely upon engineering data in lieu of emissions testing, See 40 CFR 64.4(d)(2).

Comment III.A.1A

The CAM Plan Does Not Contain An Acceptable Procedure for Setting an Opacity Indicator.

To issue a legally sufficient CAM plan, Illinois EPA "must explain how the indicator range in the CAM plan provides a reasonable assurance of ongoing compliance with the underlying PM limits in accordance with 40 CFR 64.3(a)(2)." *In the Matter of WE Energies Oak Creek Power Plant*, EPA Administrator Order at 18 (June 12, 2009). The permit record here contains no such explanation, and no clear description of how the opacity indicator range will be derived. What is clear, though, is that the range would be based on three-hour block averages. This is inconsistent with the underlying PM limit, which has a one-hour averaging period. The CAM plan must include a procedure for setting an opacity indicator range that will yield a range reflecting the proper operation and maintenance of the ESPs, with an ample margin of compliance with the hourly PM emission limit.

At most, the Statement of Basis only implies that acceptable opacity ranges will extend to "the upper limits of opacity ... which assures compliance with the PM limit." (Statement of Basis at 52). This approach does not comport with the CAM rule. The CAM rule is *not*

premised on identifying and selecting the most extreme indicator range under which a source can avoid violating an emission limit. Instead, the CAM rule provides that indicator ranges "shall reflect the proper operation and maintenance of the control device (and associated capture system), in accordance with applicable design properties, for minimizing emissions over the anticipated range of operation conditions at least to the level required to achieve compliance with the applicable requirements." 40 CFR 64.3(a)(2). The basic approach of the CAM rule is to determine what parametric indicator ranges reflect the proper operation and maintenance of the relevant pollution control device, and to make sure that the permit holder promptly addresses any deviation from those ranges with responsive actions. In this manner, compliance with the associated emission limit is assured because operational problems that otherwise would cause violations are promptly corrected. By contrast, requiring responsive action only if there is an exceedance of the "upper limit of opacity" at which one can be sure that there is no PM violation is not in line with the CAM rule's purpose, and would not yield responsive action until a violation likely already had occurred.

Describing indicator ranges generally, USEPA has stated that selected ranges "should be indicative of the normal operating range under good operation and maintenance practices". USEPA, *Technical Guidance Document: Compliance Assurance Monitoring, Revised Draft* (Aug. 1998), at 2-27. As USEPA recognized in the preamble to the CAM rule, this approach can lead to the setting of indicator ranges well below the "upper limit" of the indicator that would assure compliance with the monitored emission limit:

The Agency understands that many sources operate well within permitted limits over a range of process and pollution control device operating parameters. Depending on the nature of pollution control devices installed and the specific compliance strategy adopted by the source or the permitting authority, part 64 indicator ranges may be established that generally represent emission levels *significantly below* the applicable underlying emission limit.

62 FR 54,907 (emphasis added).

USEPA also has directly addressed the issue of setting opacity indicator ranges in CAM plans designed to assure compliance with PM emission limits at coal-fired power plants, making clear that a margin of compliance is necessary in setting an opacity indicator range. USEPA, *Compliance Assurance Monitoring (CAM) Protocol for an Electrostatic Precipitator (ESP) Controlling Particulate Matter (PM) Emissions from a Coal-Fired Boiler, Proposed* (Apr. 2003) ("ESP CAM Protocol"). The ESP CAM Protocol provides:

You will establish the opacity indicator range at a level equal to or less than an opacity at which the source has demonstrated a margin of compliance with the PM emissions limit of at least 10 percent at normal operating conditions *You should not*

select an opacity higher than the maximum opacity you observed during the calibration test program.

In sum, setting an opacity range based upon the highest opacity range that could assure compliance with the applicable PM emission limit is inconsistent with the CAM rule's requirement to also assure the "proper operation and maintenance" of the control device. 40 CFR 64.3(a)(2)

An additional consideration in setting an opacity indicator range for the coal-fired boilers at the Powerton Station is that the upper bound should be well below the boilers' opacity limit of 30 percent. According to the Statement of Basis, based on preliminary data analysis by Illinois EPA, "compliance with the PM standard is reasonably assured if the opacity of emissions from the boilers does not exceed 30 percent on a 3-hour block average." (Statement of Basis at 22 and n.21.) Logically, compliance with PM standards is then not reasonably assured if opacity exceeds 30 percent on a 3-hour block average. When opacity standards represent a likely exceedance of PM standards, opacity levels below those standards should be selected as a CAM indicator. As USEPA noted in the preamble to the CAM rule,

Opacity standards are often established at a level which represents a likely significant exceedance of the particulate matter standard. In those circumstances, an opacity level below a required opacity standard would be more appropriate as a CAM indicator.

62 FR 54,923.

As such, the opacity indicator range for the boilers at the Powerton Station should be set well below the applicable opacity limit of 30 percent, pursuant to 35 IAC 212.123.

The opacity indicator range also should be based on opacity averaged over no longer than a one-hour period. The CAM rule provides that a CAM monitoring program must "[a]llow for reporting of exceedances (or excursions if applicable to a COMS used to assure compliance with a particulate matter standard), consistent with any period for reporting of exceedances in an underlying requirement." 40 CFR 64.3(d)(3)(i). In this case, the Illinois SIP provides that the applicable averaging period in the underlying PM emission limit is hourly. 35 IAC 212.202. Therefore, the CAM plan must provide for reporting of opacity excursions on an hourly basis. Measuring opacity over a three-hour averaging period cannot assure compliance with an hourly standard.

Accordingly, the Illinois EPA must revise the CAM plan to set out a method that will yield an hourly opacity indicator range that reflects proper operation and maintenance of the ESP, including an ample of margin of compliance from the PM emission limit.

Response:

The Illinois EPA disagrees with the points raised in this comment. 40 CFR 64.3(d)(1) provides that if a continuous opacity monitoring system

is required for a subject unit by other rules, such system shall be used to satisfy the requirements of 40 CFR Part 64. While limits or standards for opacity commonly address average opacity over a period of six minutes, based on a number of individual measurements or readings during such period, opacity can also be determined for shorter or longer periods, including on a three-hour average, as proposed by Midwest Generation in its CAM Plan for the coal-fired boilers at the Powerton Station. Analysis of test data for PM emissions and opacity data for these coal-fired boilers shows that compliance with a PM limit of 0.1 lb/mmBtu, as applicable pursuant to 35 IAC 212.202, is reasonably assured if the opacity on a three-hour average is no more than 30 percent. This does not mean that opacity greater than 30 percent, three-hour average, indicates that an exceedance of the PM standard would be likely. The CAM Rule does not require that a value or indicator range be determined that would be indicative of a definitive violation of the applicable standard.

For state emission standards for which stack testing must be conducted to measure emission rates and verify compliance, it is reasonable that the nominal duration of such stack tests be used as the compliance period or averaging time over which compliance with such standard is determined. This is because the PM emission rate can only be measured with a reasonable degree of confidence by a stack test. Since a stack test to verify compliance with 35 IAC 212.202 generally consists of three runs, as provided for by 35 IAC 283.210,⁶ and each run nominally lasts one hour, the compliance period for 35 IAC 212.202 in actual practice is three hours.

Finally, USEPA did not state as a general matter that any approved indicator range should not exceed the maximum opacity observed during performance testing. USEPA made this statement in the specific context of its ESP CAM Protocol. This Protocol would rely on a computer model to calculate the PM control efficiency for the ESP. This Protocol actually states (as quoted in the comment) the opacity indicator that would trigger the use of the computer model should not exceed the value that was used during the calibration of the model. This would be appropriate as the computer model would not be developed to address higher levels of opacity, for which the model had not been calibrated.

Moreover, a more careful reading of USEPA's preamble for the adoption of the CAM Rule shows that USEPA determined that the CAM Rule will act to support or facilitate the proper operation and maintenance of emission units and their control devices by sources. This is because the CAM Rule requires that indicator ranges be established that provide a reasonable assurance of compliance with the applicable emission limitations or standards.⁷ It is relevant that USEPA focuses

⁶ Similar provisions for averaging of test results are found in federal rules, see 40 CFR 60.7(f) and 40 CFR 63.7(e) (3).

⁷ As explained by USEPA in the preamble to the adoption of the CAM Rule,

These examples point to the underlying assumption that there is a reasonable assurance of compliance with emission limits so long as the emission unit is operated under the

upon the demonstration of compliance made for an emission unit without any mention of "proper operation and maintenance" of control devices. As specifically related to the establishment of indicator ranges for purposes of CAM, USEPA stated the following.

...the presumptive approach for establishing indicator ranges in part 64 is to establish the ranges in the context of performance testing. To assure that conditions represented by performance testing are also generally representative of anticipated operating conditions, a performance test should be conducted under conditions specified by the applicable rule or, if not specified, generally under conditions representative of maximum emission potential under anticipated operating conditions. In addition, the rule allows for adjusting the baseline values recorded during a performance test to account for the inappropriateness of requiring that indicator conditions stay exactly the same as during a test. The use of operational data collected during performance testing is a key element in establishing indicator ranges; however, other relevant information in establishing indicator ranges would be engineering assessments, historical data, and vendor data. Indicator ranges do not need to be correlated across the whole range of potential emissions.
62 FR 54,926 (Oct. 22, 1997)

In addition, with respect to indicator ranges and proper operation and maintenance, the CAM Rule only provides that:

...Such range(s) or conditions(s) shall reflect the proper operation and maintenance of the control device (and associated capture system), in accordance with applicable design properties, for minimizing emissions over the anticipated range of operation conditions at least to the level required to achieve compliance with the applicable requirements. ...
40 CFR 64.3(a)(2)

conditions anticipated and the control equipment that has been proven capable of complying continues to be operated and maintained properly. In most cases, this relationship can be shown to exist through the performance testing without additional site-specific correlation of operational indicators with actual emission values. The monitoring design criteria in Sec. 64.3(a) build on this fundamental premise of the regulatory structure.

Thus, Sec. 64.3(a) states that units with control devices must meet certain general monitoring design criteria in order to provide a reasonable assurance of compliance with emission limitations or standards for the anticipated range of operations at a pollutant-specific emissions unit. These criteria mandate the monitoring of one or more indicators of the performance of the applicable control device, associated capture system, and/or any processes significant to achieving compliance. The owner or operator shall establish appropriate ranges or designated conditions for the selected indicators such that operating within the established ranges will provide a reasonable assurance of compliance for the anticipated range of operating conditions. The requirement to establish an indicator range provides the objective screening measure to indicate proper operation and maintenance of the emissions unit and the control technology, i.e., operation and maintenance such that there is a reasonable assurance of compliance with emission limitations or standards.
62 FR 54918 (Oct. 22, 1997)

Comment III.A.1A

Pursuant to 35 IAC 212.123 and 212.124, opacity exceedances of two 6-minute averaging periods constitute violations of the SIP's opacity and PM emission limits. Further, 35 IAC 212.123(b) imposes a 24-minute average (a limit on opacity exceeding 60 percent in three consecutive 8-minute periods). This indicates that the intent behind 35 IAC 212.123 was to create a short term limit that should not be averaged over more than a 12-minute period.

Response:

The observations in this comment are not relevant to the compliance time period of either the opacity or PM emission standard that is applicable to the coal-fired boilers at the Powerton Station. As 35 IAC 212.109 provides that observations of opacity by a human observer are to be made in accordance with USEPA Method 9, the compliance period for the opacity standard in 35 IAC 212.123(a) is a 6-minute average. Arguably, the compliance period for the alternative opacity standard in 35 IAC 212.123(b) is 24 hours, as 24 hours of opacity data may be needed to determine compliance with this standard.⁸ Certainly, neither standard applies on a 12-minute average as suggested by this comment. Moreover given the disparity in compliance periods, it is unclear how an exceedance of either of these opacity standards would necessarily constitute credible evidence of a violation of a PM standard for which the duration of emission testing to measure PM emissions is nominally three hours.⁹

Comment III.A.2 -

The CAM Plan Should Include Additional Parameters for the ESPs.

Illinois EPA should revise the CAM Plan to include monitoring of other parameters of ESP performance in addition to opacity. Specifically, pursuant to USEPA guidance, the CAM plan should include monitoring of voltage and current for each ESP field.

In the ESP CAM Protocol, USEPA described the difficulties of using opacity as an indicator for PM emissions, in general, due to the lack of a linear relationship between opacity and PM:

⁸ Theoretically, the terms of 35 IAC 212.123(b) could allow average opacity from an emissions unit over a 24 hour period to be as high as 30.5 percent. $[(3 \times 8 \text{ minutes} \times 60\% \text{ opacity}) + (1,416 \text{ minutes} \times 30\% \text{ opacity})] / 1440 \text{ minutes} = 30.5\% \text{ opacity}$. In this regard, 35 IAC 212.123(b) provides that:

The emission of smoke or other particulate matter from any such emission unit may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such opaque emissions permitted during any 60 minute period shall occur from only one such emission unit located within a 305 m (1000 ft) radius from the center point of any other such emission unit owned or operated by such person, and provided further that such opaque emissions permitted from each such emission unit shall be limited to 3 times in any 24 hour period. [Emphasis added]

⁹ For an emission unit that is subject to 35 IAC 212.123, as stated in another comment, 35 IAC 212.124(d)(2)(A) provides that a violation of the 30 percent opacity limit in 35 IAC 212.123 presumptively constitutes a violation of the state PM standard that applies to that unit. However, it is not appropriate for the Illinois EPA to discuss the import of 35 IAC 212.124(d) in this responsiveness summary as the presumption in this rule may be the subject of litigation in the near future.

[O]pacity, a commonly used parameter, can indicate ESP performance. If the opacity is increasing, you can reasonably assume that PM emissions are increasing. What generally is not known on a quantitative basis is the magnitude of the mass emissions relative to any one opacity value or the increase in mass emissions relative to the increase in opacity. In addition, and perhaps most importantly, the relationship between opacity and mass emissions can vary significantly with the particle size distribution and refractive index of the ash particles. The properties of the particulate matter can be influenced by fuel changes and the number and location of ESP electrical sections in service.

Because the relationship between opacity and PM "is not robust overall operating conditions," USEPA's monitoring protocol for CAM plans at coal plants provides that monitoring opacity alone is not sufficient. Instead, USEPA's "presumptively acceptable" approach, see 40 CFR 64.4(b)(5), provides that the source also should monitor other ESP operating parameters—specifically, voltage and current for each ESP field—and run a calibrated computer model to calculate ESP efficiency when the opacity excursion level is triggered. See also USEPA, *CAM Technical Guidance Document*, App. A.25, *Electrostatic Precipitator (ESP) For PM Control—Facility FF* (June 2002), at A.25-2 (model CAM plan providing that "ESP secondary voltage and current are measured for each field to determine the total power to each ESP"). In order to assure proper operation and maintenance of the boilers' ESPs, Illinois EPA also should require parametric monitoring of voltage and current for each ESP field.

Response:

Given the provisions of the CAM rules, it was wholly appropriate for Midwest Generation to have selected opacity as the sole indicator for the performance of the ESPs on the boilers. The fact that Midwest Generation did not include a second parameter, e.g., "corona power" or current, in its CAM Plan does not show that the plan should be found unacceptable. The basic criterion for an acceptable CAM Plan, as specified by 40 CFR 64.3(a), is that the plan will provide "a reasonable assurance of compliance" with the applicable standard or emission limitation. The plan submitted by Midwest Generation meets this criterion. Therefore, inclusion of additional indicators in the CAM Plan is not justified at this time given the relevant criterion has been satisfied.

This comment does not show that the CAM Plan should include additional indicators for ESP performance. The comment points to USEPA guidance suggesting that the CAM Plan should also address voltage and current for each ESP field. Thus, the addition of corona power is not supported by the comment.

In addition, the comment goes on to state that because of the lack of a linear relationship between opacity and PM, there is not a "robust" correlation over all operating conditions and thus additional

monitoring of other ESP parameters must be included in the Plan. Particularly, the comment relies on: 1) a statement in USEPA guidance regarding the inadequacy of opacity alone, 2) presumptively acceptable monitoring in 40 CFR 64.4(b)(5) and (3) an example in the USEPA CAM Technical Guidance document. Each of these points is not sufficient either alone or in combination to justify addition of a second indicator of ESP performance parameter to the CAM Plan.

With regard to the ESP CAM Example, USEPA clearly indicates in the CAM Technical Guidance Document, Appendix A, that the examples of approaches to CAM that are attached to that document are merely examples and are not prescriptive.¹⁰ As such, the use of corona power in the ESP CAM Example as another indicator for performance of an ESP does not mean that opacity, alone, is not acceptable in a CAM plan. Thus, the ESP CAM Example does not address an appropriate approach to CAM for the ESPs on the Powerton Station boilers, for which continuous opacity monitoring is required. In fact, the "proposed" ESP CAM Protocol referenced in the comment actually suggests just the opposite as it states that "...for any given ESP and boiler, opacity can serve as a very useful indicator to initiate additional action..." In this regard, opacity monitoring is a well-established means to address emissions of PM.¹¹

Robust statistics do not require that the value of one parameter will in all cases enable an accurate prediction of the value of a second parameter that is of interest. "Robustness" only requires that the value of the first parameter be sufficient for the purpose for which it is being used. In this case, a robust relationship is present between 30 percent opacity on a 3-hour average and compliance with the applicable PM standard.

Lastly, the fact that a particular approach for CAM has been deemed by USEPA to be presumptively acceptable, does not show the CAM Plan submitted by Midwest Generation is unacceptable. The relevant question for the CAM plan submitted by Midwest Generation for the coal-fired boilers at the Powerton Station is whether it meets the criteria set out in 40 CFR 64.3. For these boilers, the use of opacity as the CAM indicator will provide an effective and reasonable means of assuring compliance with the applicable PM standard on an ongoing basis, as required by 40 CFR 64.3(a)(1).

Comment III.A.3 -

The CAAPP Permit Would Not Address Implementation of MATS

¹⁰ As stated in the introduction to Appendix A (Example Monitoring Approach Submittals) of the *CAM Technical Guidance Document*, "Note that the resulting examples are not necessarily the only acceptable monitoring approaches for the facility or similar facilities; they are simply examples of different approaches used by particular facilities. The owner or operator of a similar facility may propose a different approach that satisfies part 64 requirements." *CAM Technical Guidance Document*, September 2004, p A-vii.

¹¹ Numerical values of opacity can be reliably determined by observations of the exhaust from emission units by individuals who have been properly trained and demonstrated their ability to make such observations in accordance with USEPA Method 9. Numerical measurements of observations can also be made with monitoring instruments that are installed in the stack or ductwork of an emission unit, in which case opacity can be determined on a continuous basis.

The CAAPP permit should address how Midwest Generation will ensure that the boilers at the Powerton Station comply with the Mercury and Air Toxics Standards (MATS), 40 CFR 63 Subpart UUUUU, which was adopted by USEPA in 2011. Although the Illinois EPA granted Midwest Generation a one-year compliance extension for a portion of the MATS rule, most of the requirements went into effect for these boilers on April 16, 2015. 40 CFR 63.9984(b).

Along with various other HAPs, the MATS rule regulates emissions of non-mercury metal HAPs. For non-mercury metal HAPs, subject coal-fired boilers must comply with either: 1) A limit for filterable PM, 2) Limit for individual non-mercury metal HAPs, or 3) A limit for total non-mercury metal HAPs. The limit for PM emissions is 0.03 lb/mmBtu, or alternatively is 0.3 lb/MWh. (40 CFR 63 Subpart UUUUU Table 2.) For the coal-fired boilers at the Powerton Station, these PM limits are much more stringent than the current PM emission limit, 0.10 lb/mmBtu. Moreover, the MATS rule also requires continuous PM emission monitoring, a PM continuous parametric monitoring system or quarterly performance testing. (40 CFR 63 Subpart UUUUU Tables 6 and 7.)

For the coal-fired boilers at the Powerton Station, the Illinois EPA has not explained how Midwest Generation plans to comply with the MATS rule. This is particularly egregious given the deliberations on the CAM Plan for these boilers. Both the MATS and the CAM rules contain or create requirements related to monitoring of the PM emissions of the boilers. However, the CAM Plan does not address the PM monitoring that Midwest Generation must conduct pursuant to the MATS rule. Therefore, for the Powerton Station, by when does Midwest Generation intend to comply with the MATS for non-mercury metal HAPs? Does Midwest Generation plan to meet the MATS emissions limits for PM, for individual non-mercury metal HAPs or for total non-mercury metal HAPs? If Midwest Generation plans to comply with the PM limit, how does it intend to demonstrate compliance and how will this impact or interrelate with the proposed CAM Plan?

Response:

The questions in this comment are not relevant to the issuance of a revised CAAPP permit for the Powerton Station, which has now occurred. As discussed already, applicable requirements that took effect after the initial CAAPP permit issued in September 2005 must be addressed during the reopening permit action for the permit. The MATS rule is one of these post-2005 requirements that will be addressed in the reopening proceeding, for which notice was provided to Midwest Generation when this revised CAAPP permit was issued.

Notwithstanding this fact, Midwest Generation is currently subject to all requirements of the MATS rule except for requirements related to non-mercury metal HAPs, for which it has received a one-year

compliance extension.^{12, 13} The extension request submitted by Midwest Generation in 2013¹⁴ and revised in 2014 states that it is complying with other requirements of MATS rule that are currently applicable. Midwest Generation has not proposed to incorporate or rely on monitoring conducted under MATS in its current CAM Plan for the PM emissions of the boilers, which plan addresses compliance with the applicable state emission standard, 35 IAC 212.202.¹⁵

Comment III.B -

The CAM Plan Does Not Include Sufficient Responsive Actions.

Condition 7.1.13-2 of the proposed CAM plan sets out the actions that Midwest Generation is to take in response to excursions of the indicator range. Essentially, the plan requires Midwest Generation to "restore operation of the [Boilers] (including the control device and associated capture system) to [their] normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions." Condition 7.1.13-2(c)(ii)(A). This standard does not provide enough detail to assure prompt correction of improper operation, and should be revised to include site-specific description of required responsive actions.

USEPA has emphasized the importance of responsive actions within a CAM plan:

[T]he Agency believes it is critical to underscore the need to maintain operation within the established indicator ranges. Therefore, the rule includes the requirement to take prompt and effective corrective action when the monitored indicators of compliance show that there may be a problem. Requiring that owners and operators are attentive and respond to the data gathered by part 64 monitoring has always been central to the CAM approach.

* * *

[I]t is essential to the CAM goal of ongoing compliance operation that part 64 require that owners or operators

¹² Section 112(i)(3)(B) of the Clean Air Act provides that an existing source up to one additional year to comply with new requirement of a NESHAP rule if more time is necessary for the installation of controls.

¹³ For the coal-fired boilers at the Powerton Station, for the MATS rule, Midwest Generation requested a compliance date extension pursuant to Section 112(i)(3)(B) of the Clean Air Act to complete upgrades of the ESPs on the boilers and installation of PM continuous monitoring systems. Accordingly, the compliance date extensions issued by the Illinois EPA only addressed provisions of the MATS rule for non-mercury metal HAPs.

¹⁴ Midwest Generation letter dated March 5, 2015 states: "All other units for which extensions are requested are fully compliant with the MATS limits for mercury and acid gases that took effect on April 16, 2015."

¹⁵ The indicator or monitoring that is used in the CAM Plan for the coal-fired boilers at the Powerton Station may need to be reevaluated in the future. This is because 40 CFR 64.3(d)(1) provides:

"If a continuous emission monitoring system (CEMS), continuous opacity monitoring system (COMS) or predictive emission monitoring system (PEMS) is required pursuant to other authority under the Act or state or local law, the owner or operator shall use such system to satisfy the requirements of this part. "

respond to the data so that any problems indicated by the monitoring are corrected as soon as possible.
62 FR 54,931.

One example of effective responsive actions can be found in the Title V permit for the Huntley Steam Generating Station, issued by the New York Department of Environmental Conservation. The Huntley permit incorporates tiered responsive actions for the opacity indicator. (Huntley Permit, at 73-74). Under this approach, increasing levels of opacity trigger requirements of more aggressive responsive actions, culminating with a requirement that the unit be removed from service if rolling 24-hour opacity exceeds 19 percent, or rolling 168-hour opacity exceeds 18 percent.

The CAM plan for the Powerton Station should include a similarly tiered requirement for responsive action, beginning with inspection requirements at lower levels of opacity, and culminating with required shutdown of the affected boiler at a level near the upper bound of opacity within which compliance with the PM emission limit can be assured. This site-specific description of necessary responsive actions will be more enforceable than the currently vague reference to returning boilers to their normal manner of operation as quickly as possible.

Response:

This comment did not justify any changes to draft Condition 7.1.13-2. This condition simply reiterates the relevant language in 40 CFR 64.7(d)(1), which addresses how a source must respond to excursions or exceedances identified pursuant to its CAM monitoring.¹⁶ As such, it is fully appropriate that this condition be included in the issued permit in the form in which it was set out in the draft permit without any changes.

The inclusion of "tiered response requirements" in the Title V Permit for the Huntley Station does not support development and imposition of similar requirements for the boilers at the Powerton Station. A basic question posed by such requirements is whether they are consistent with the basic requirements for a CAM Plan, i.e., that they work to provide a reasonable assurance of

¹⁶ 40 CFR 64.7(d) provides:

"(d) *Response to excursions or exceedances.* (1) Upon detecting an excursion or exceedance, the owner or operator shall restore operation of the pollutant-specific emissions unit (including the control device and associated capture system) to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion or exceedance (other than those caused by excused startup or shutdown conditions). Such actions may include initial inspection and evaluation, recording that operations returned to normal without operator action (such as through response by a computerized distribution control system), or any necessary follow-up actions to return operation to within the indicator range, designated condition, or below the applicable emission limitation or standard, as applicable.

(2) Determination of whether the owner or operator has used acceptable procedures in response to an excursion or exceedance will be based on information available, which may include but is not limited to, monitoring results, review of operation and maintenance procedures and records, and inspection of the control device, associated capture system, and the process."

compliance. In this regard, it is unclear whether the "Level One" actions required for the Huntley boilers even constitute a response to an excursion or exceedance.¹⁷ Moreover, when an exceedance or excursion is identified, the CAM Plan approved by the permitting authority should not predetermine the source's response based on the magnitude of the occurrence. As confirmed by 40 CFR 64.7(d) (2), the adequacy of a source's response to an exceedance or excursion is to be evaluated by a regulatory authority on a case-by-case basis.^{18, 19}

Comment IV.A -

The Draft CAAPP Permit's Authorization of Exceedances During SSM Events Violates the Clean Air Act

The provisions of the draft revised CAAPP for periods of startup, shutdown, and malfunction (SSM) of emission units at the Powerton Station are unlawful. They were unlawful when first adopted and have been made even weaker by the proposed changes to the permit. Collectively, the SSM provisions will effectively allow Midwest Generation to disregard virtually all existing SIP emission limitations for hours at a time during SSM events. The Illinois EPA should not provide explicit allowances for exceedances of SIP emission limitations during SSM periods, or in the alternative at least provide sufficiently stringent and specific conditions on these periods to truly minimize the unnecessary emission that may otherwise occur.

A key problem with the proposed SSM provisions in the permit is that SSM exemptions from SIP emission limitations as a category run contrary to USEPA's current view on allowing exceedances during SSM events, and to recent federal case law on the topic, because they undermine the protection of the national ambient air quality standards (NAAQS) and other fundamental requirements of the Clean Air Act. *USEPA, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction*, (May 25, 2015). In this regard, any exemptions to SIP emission limitations, for whatever reason, are contrary to the Clean Air Act and to USEPA's longstanding policy that SIP emission limitations must apply and be enforceable at all times. The Clean Air Act specifies that SIPs must include enforceable "emissions

¹⁷ Condition 72.2.II.2.a of the Huntley permit, addresses "Level One" actions and addresses certain actions that the source must take when "...the 24-hour or 168-hour baseline opacity is higher than normal and increased attention should be given to the operation of the boiler and the ESP performance."

¹⁸ The cited provisions of the Huntley permit also appear problematic as opacity values with two different averaging times are used, i.e., 24 and 168 hours, both of which would be longer than the compliance period of the applicable PM limit, i.e., 0.17 pound/mmBtu, pursuant to 6 NYCRR 227-1.2(b).

¹⁹ As a whole, the provisions of the Huntley permit cited by this comment would suggest that they were additional obligations taken on by a source in the context of settlement of an enforcement action, as they appear to go beyond those necessary for compliance with an applicable emission standard.

limitations," and further requires that these "emissions limitations" apply on a "continuous" basis. Clean Air Act Sections 110(a)(2)(A) and (a)(2)(C) and 302(k).²⁰ Exceptions allowing sources to emit additional pollutants during SSM events by their operation prevent the "continuous" enforcement of emission limits. Thus, they conflict with the plain language requirement of Section 110(a)(2)(A) of the Clean Air Act, as defined by Section 302(k) of the Clean Air Act. Any exemptions also rob USEPA and the public of their enforcement power in violation of the enforcement provisions in Sections 113 and 304 of the Clean Air Act.

Exempting emissions also conflicts with the core purpose of the Clean Air Act. USEPA recognizes its "overarching duty under the [Clean Air Act] to protect public health through effective implementation of the NAAQS." USEPA Memorandum to Docket EPA-HQ-OAR-2012-0322, at 9. Startup, shutdown and malfunction events result in short-term releases of a large amount of pollution, including releases of sulfur dioxide and nitrogen oxides, as well as other toxic and carcinogenic pollutants, in amounts that are many times above the legal limits. See Environmental Integrity Project, *Gaming the System: How Off-the-Books Industrial Upset Emissions Cheat the Public Out of Clean Air*, at 5-8 (Aug. 2004). Though there is a paucity of data on excessive emissions events,²¹ a 2004 study by the Environmental Integrity Project shows that excess pollution released during SSM events can actually exceed the "normal" annual amount of emissions that sources otherwise report.

In short, continuous and enforceable emission limitations are legally the only way to ensure protection of ambient air quality standards. As USEPA noted in its new SSM rule, "SIPs are ambient-based standards and any emissions above the allowable [ambient concentration] may cause or contribute to violations of the national ambient air quality standards." USEPA Memorandum to Docket EPA-HQ-OAR-2012-0322, at 9 (citing 1982 SSM Guidance). Continuous and enforceable limits also ensure that sources of emissions continue to have a strong incentive to operate using best practices and to invest in appropriate pollution controls and equipment. 78 FR 12,485.

The D.C. Circuit has held that any affirmative defenses whatsoever against enforcement of SIP emission limitations are inconsistent with the Act. *Natural Resources Defense Council v.*

²⁰ Recent court decisions also have emphasized that SIP emission limitations must be continuous according to the plain language of the Clean Air Act. USEPA Memorandum to Docket EPA-HQ-OAR-2012-0322, at 4, n. 10 (Feb. 4, 2013) (citing *Sierra Club v. Johnson*, 551 F.3d 1019 (D.C. Cir. 2008) and *U.S. Magnesium, LLC v. EPA*, 690 F.3d 1157, 1160 (10th Cir. 2012)).

²¹ A 2012 report from the Louisiana Bucket Brigade concluded that "[o]ver 20% of reports across all refineries contain no information about the accident, what was released, how much, what caused the accident and what will be done to prevent it in the future." Louisiana Bucket Brigade, *Common Ground IV*, at 1 (2012).

E.P.A., 749 F.3d 1055, 1063 (D.C. Cir. 2014).²² In response to this ruling, USEPA also has made clear the unlawfulness of allowing unenforced, unrestricted emissions during SSM in its new SSM rule. In that rule, USEPA states that emission limits apply at all times, including SSM, and no affirmative defenses to enforcement may be employed. USEPA, *State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction*, (May 25, 2015, published in the Federal Register on June 12, 2015, 80 FR 33,840).

The revised draft CAAPP permit would violate USEPA's updated SSM requirements in several ways. First, Condition 7.1.3(c) would grant Midwest Generation the authority to continue operating the coal-fired boilers at the Powerton Station during periods of malfunction despite emissions exceedances, and provides a corresponding affirmative defense to injunctive relief for exceedances during those periods. To be consistent with USEPA's new SSM rule, this condition should not be included in the revised CAAPP permit.

Second, contrary to USEPA's new SSM rule, Condition 7.1.3(b) of the revised draft permit would create a complete bar to enforcement of exceedances during periods of startup, granting Midwest Generation authority to exceed its SIP emission limitations during startup of a boiler. This condition should also not be included in the CAAPP permit for the Powerton Station.

Third, even assuming an affirmative defense to penalties were lawful (which it is not, as discussed later), the permit would run contrary to published USEPA standards for determining when a source may be eligible for an affirmative defense to statutory penalties. USEPA has published recommended criteria delineating when a source may qualify for an affirmative defense to statutory penalties. See Steven A. Herman and Robert Perciasepe, USEPA, *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*, at 3-4 (Sep. 20, 1999) ("USEPA 1999 Policy"). Those criteria include a test to determine if an event qualifies as a malfunction, which provides that malfunctions must not be part of a pattern or stem from an avoidable event, and must be resolved as quickly as possible while minimizing impacts on air emissions (USEPA 1999 Policy, p. 3-4). USEPA also provides that excess emissions during startup

²² In April of 2014 in *Natural Resources Defense Council v. EPA*, the D.C. Circuit struck down the affirmative defense provisions in regulations allowing cement plants to avoid monetary liability for violations of emission standards during unavoidable malfunctions. In so holding, that court noted that Sections 304 and 113 of the Clean Air Act, the provisions for citizen suits and civil penalties, make the question of what civil penalties, if any, are appropriate in a citizen suit enforcement action a question for district courts to decide, not USEPA. The court thus found that USEPA had no authority to create the affirmative defense.

must not be part of a pattern or stem from an avoidable event. (USEPA 1999 Policy, p. 5-6). The draft revised CAAPP permit for the Powerton Station would deviate significantly from these criteria, opening up the possibility that it might be improperly granted an affirmative defense. For instance, the permit would authorize continued operation of both the coal-fired boilers and coal handling equipment during malfunctions where "necessary to provide essential service or to prevent injury to personnel or severe damage to equipment." See Condition 7.1.3(c) (i) and 7.2.3(b) (i). The draft revised CAAPP permit includes no provision requiring that malfunctions not be part of a pattern or stem from an avoidable event, or that they be resolved as quickly as possible while minimizing impacts on air emissions. Similarly, the permit's authorization to exceed emission limits during startup requires only that the applicant take "all reasonable efforts ... to minimize startup emissions, duration of individual startups and frequency of startups" (and the revised draft CAAPP permit implements these requirements to the letter of the SIP). See Condition 7.1.3(b) (i). Nowhere does the permit require that any exceedances during startup not be part of a pattern or stem from an avoidable event.

Although Illinois EPA's holdings reflect existing provisions in Illinois' current SIP with respect to SSM events, in the SIP Call, USEPA has already found that Illinois's SSM provisions are inconsistent with the Clean Air Act:

The EPA believes that the inclusion of the complete bar to liability, including injunctive relief, the availability of the defense for violations during startup and shutdown, the burden-shifting effect, and the insufficiently robust qualifying criteria in Ill. Admin. Code tit. 35 § 201.261, Ill. Admin. Code tit. 35 § 201.262, and Ill. Admin. Code tit. 35 § 201.265, are substantial inadequacies and render these specific SIP provisions impermissible.
78 FR 12514-15.

Furthermore, USEPA has subsequently revised its SIP Call to be consistent with *Natural Resources Defense Council v. EPA*, issuing a supplemental notice of proposed rulemaking that explicitly held that any defenses for emission exceedances during SSM events is unlawful:

[The Illinois SIP] create[s] an impermissible affirmative defense for violations of SIP emission limits. These provisions would operate together to limit the jurisdiction of the federal court in an enforcement action and to preclude both liability and any form of judicial relief contemplated in Clean Air Act sections 113 and 304.
State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction;

Supplemental Proposal to Address Affirmative Defense Provisions in States Included in the Petition for Rulemaking and in Additional States: Proposed Rule, 79 FR 55920 (Sept. 17, 2014).

On May 22, 2015, USEPA finalized these changes, revising its guidance to make clear that affirmative defense provisions are not permissible in SIPs; and issuing SIP calls directing 23 statewide and local jurisdictions, including Illinois, to remove affirmative defense provisions from their SIPs.²³

Response:

This comment does not support the changes to the CAAPP permit for the Powerton Station that it recommends. As observed by this comment, the appropriate approach to SSM events for SIP emission limitations is a subject that USEPA is now addressing in its SSM Rule or "SIP Call." As clearly stated by USEPA in the SIP Call, provisions of approved SIPs are not altered by the SIP call. Accordingly, the CAAPP permit for the Powerton Station properly addresses and implements the provisions of Illinois' current rules related to startup and malfunction breakdown events.

When the EPA issues a final SIP call to a state, that action alone does not cause any automatic change in the legal status of the existing affected provision(s) in the SIP. During the time that the state takes to develop a SIP revision in response to the SIP call and the time that the EPA takes to evaluate and act upon the resulting SIP submission from the state pursuant to CAA section 110(k), the existing affected SIP provision(s) will remain in place.

80 FR 33840 (June 12, 2015)

The SIP Call requires appropriate rulemaking by affected states and jurisdictions, not source-by-source actions during permitting. In this regard, as discussed in this comment, USEPA has reconsidered the provisions that address the potential for "excess emissions" during SSM in the SIPs of a number of states and local jurisdictions, including Illinois' SIP. USEPA has now found that many of these existing SIP provisions, including the relevant provisions of Illinois rules dealing with startup and malfunction and breakdown events, which USEPA had previously approved, are inconsistent with provisions of the CAA.²⁴ Accordingly, USEPA has issued the SIP Call, which requires

²³ USEPA, *State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction*, May 25, 2015 (published in the Federal Register June 12, 2015).

²⁴ Illinois' SIP, 35 IAC 201.149, prohibits startup (S) of an emission unit or continued operation of an emission unit during malfunction or breakdown (MB) if such operation would cause a violation of an applicable state emission standard absent express permit authorization. Illinois' process for addressing compliance with state emission standards during SMB is set forth in 35 IAC 201 Subpart I and has two steps. The first step consists of obtaining authorization by means of a permit application to make a future claim of SMB. The second step involves making a viable claim of SMB. For startup, this consists of showing that all reasonable efforts have been made to minimize emissions from the startup event, to minimize the duration of the event, and to minimize the frequency of such events. For MB, this consists of showing that

those affected states and local jurisdictions to undertake rulemaking to appropriately revise their SIPs so that SSM events are appropriately addressed.²⁵

Moreover, the USEPA does not mandate in the SIP Call that the current short-term emission limitations in the affected SIPs be made applicable at all times, as implied by this comment. Rather, the SIP Call requires that SIPs be revised so that they appropriately address SSM events. USEPA recognized that a number of different approaches may be possible and appropriate to address various types of emission units and their possible circumstances. One possible approach recognized by the SIP Call is the adoption of "alternative emission limitations" for SSM events.²⁶ The adoption of alternative emission limitations, as contemplated by the SIP Call, would be a task that would be carried out through rulemaking. In Illinois, this rulemaking would involve a proceeding before the Pollution Control Board in which the Illinois EPA, the affected sources and interested members of the public could all participate. In other words, while it is correct that certain provisions of Illinois' SIP dealing with SMB events have now been found to be inconsistent with the Clean Air Act, the difficulty is with those regulatory provisions. As such, the proper response is rulemaking to correct the now-identified flaw in these provisions that were the result of earlier rulemaking. The SIP call will not affect the requirements of this CAAPP permit until after Illinois acts to develop and put into place revisions to Illinois' SIP that respond to the SIP call.²⁷

continued operation was necessary to prevent injury to persons or severe damage to equipment, or was required to provide essential services. Inherent in this showing, is the obligation to show that operation and excess emissions occurred only to the extent necessary.

Midwest Generation sought SMB authorizations for certain units at the Powerton Station. The Illinois EPA reviewed these requests and, as appropriate, granted authorizations in the CAAPP permit to make claims of SMB. These authorizations do not equate to an "automatic exemption" from otherwise applicable state standards. These authorizations are fully consistent with long standing practice in Illinois for permitting and enforcement. In particular, the nature of the coal-fired utility boilers is such that certain excess emissions may occur during SMB that a source cannot reasonably avoid or readily anticipate. However, the source may be held appropriately accountable for any excess emissions that should not have occurred regardless of the authorizations in the CAAPP permit related to SMB. In summary, the provisions in the CAAPP permit related to SMB do not translate into any advance determinations related to actual occurrences of excess emissions. Rather, they provide a framework whereby Midwest Generation is provided with the ability to make a claim of SMB, with the viability of any such claim subject to further review.

²⁵ Parallel with its SIP Call related to SSM events and its work with affected states and other jurisdictions on revisions to their SIPs, USEPA is also committed to undertaking rulemaking to revise a number of emission standards that it adopted. These standards must also be revised so they appropriately address emissions during SSM.

²⁶ For purposes of the SIP Call, an alternative emission limitation is

"... an emission limitation in a SIP that applies to a source during some but not all periods of normal operation (e.g., applies only during a specifically defined mode of operation such as startup or shutdown). An alternative emission limitation is a component of a continuously applicable SIP emission limitation, and it may take the form of a control measure such as a design, equipment, work practice or operational standard (whether or not numerical)."

80 FR 33842 (June 12, 2015)

²⁷ As with many USEPA rulemaking related to the Clean Air Act, the SIP Call is the subject of an appeal filed with the U.S. Court of Appeals in the District of Columbia, though it is too early to determine what effect this lawsuit may have on the timing of the effectiveness of the SIP Call.

It is also noteworthy that the SIP call is not based on a quantitative evaluation by USEPA of the impacts on ambient air quality of extra emissions during SSM events. Rather, the SIP call is based on a reassessment of the language of the Clean Air Act by USEPA, as guided by various court decisions related to SSM events.²⁸ In addition, this comment has not provided any information to support the claim that the emissions of coal-fired power plants associated with SSM events are significant. The study cited by this comment to support this claim, *Gaming the System: How Off-the-Books Industrial Upset Emissions Cheat the Public Out of Clean Air*, does not address coal-fired power plants.

As a final point, notwithstanding representations made in this comment, Illinois SIP contains no special provisions dealing with applicability of SIP emission limitations during shutdown of emission units. Accordingly, changes to Illinois' SIP related to shutdown of emission units are not actually required as a result of the SIP Call.²⁹

Comment IV.A. -
Extra from a footnote

In order to ensure that the CAAPP permit for the Powerton Station is consistent with Clean Air Act requirements, this permit must allow the public to hold Midwest Generation directly accountable when emission units at the station emit excess emissions. For this reason, the CAAPP permit should clarify that any finding in the permit that emission exceedances qualify for consideration under the provisions of Illinois SIP for SSM, as implemented through this CAAPP permit does not preclude either USEPA enforcement or a citizen suit pursuant to the Clean Air Act.

Response:

The issued CAAPP permit does not act to preclude either USEPA

²⁸ In the SIP Call, USEPA addressed the implications of the SIP Call for air quality in its response to certain comments that opposed the SIP Call because USEPA had not demonstrated that the provisions at issue in the SIP Call have contributed to specific violations of air quality standards or caused harm to public health or the environment.

As explained in the February 2013 proposal, the SNPR [Supplemental Notice of Proposed Rulemaking] and this document, the EPA does not interpret its authority under section 110(k)(5) to require proof that a deficient SIP provision caused a specific violation of the NAAQS at a particular monitor on a particular date, or that a deficient SIP provision undermined a specific enforcement action. Section 110(k)(5) explicitly authorizes the EPA to make a finding that a SIP provision is substantially inadequate to "comply with any requirement of" the CAA, in addition to the authority to do so where a SIP is inadequate to attain and maintain the NAAQS or to address interstate transport. In light of the court's decision in *NRDC v. EPA*, the EPA has reexamined the question of whether affirmative defenses are consistent with CAA requirements for SIP provisions. As explained in this action, the EPA has concluded that such provisions are inconsistent with the requirements of section 113 and section 304.

80 FR 33859 (June 12, 2015)

²⁹ It should also be recognized that the challenge of permit conditions made by this comment does not fall within the purview of revisions being made in this proceeding to resolve the appeal of the initial CAAPP permit. Effectively, this comment challenges the validity of certain in the initial CAAPP permit that implemented Illinois rules for startups and malfunction/breakdown events. This proceeding is governed by the applicable requirements of Title V and state CAAPP program, which act to limit the scope of review to the revisions that would be made to the CAAPP permit.

enforcement or a citizen suit pursuant to the Clean Air Act as related to emission exceedances during startups and malfunction or breakdown events at the Powerton Station. At the same time, it would not be proper for this permit to suggest, as requested by this comment, that the permit could act to alter relevant provisions of the current Illinois SIP that address emissions exceedances during startups and malfunction and breakdown events.

Comment IV.B.1 -

The Proposed Changes to SSM Reporting Requirements Would Make It Harder to Enforce the Limits - Reporting Times for Malfunctions

Another problem with the proposed SSM provisions in the draft revised CAAPP permit is that the changes to the proposed reporting requirements will make it more difficult for Illinois EPA and the public to learn about, much less effectively respond to, emissions exceedances. These changes weaken Midwest Generation's reporting requirements around SSM events in often inexplicable ways that are inconsistent with the Title V permit program's purpose of assuring compliance with the Clean Air Act.

The draft revised CAAPP permit would reduce reporting requirements without providing sufficient basis for these decisions. In particular, the proposed revisions to Conditions 7.1.10-3(a)(i), 7.2.10(b)(i)(A), and 7.3.10(b)(i)(A) would increase the time before Midwest Generation must immediately report exceedances of the 30 percent opacity standard for most of the station's equipment (including the boilers and all coal processing or handling equipment), by 18 minutes, or a more than 50 percent increase in time. The revision to Condition 7.4.10(b)(i)(A) would double the amount of time Midwest Generation has to immediately report opacity exceedances for fly ash handling equipment, from 24 to 48 minutes. All of these changes would reduce the role of Illinois EPA to provide oversight of and respond to significant pollution exceedances. The Illinois EPA should reconsider these planned changes to ensure that opacity exceedances continue to be dealt with quickly and with sufficient oversight.

Response -

The Illinois EPA does not consider the additional time for implementing the immediate notification requirement to be an impediment to its role in addressing and exercising oversight for opacity exceedances during malfunction events. As explained in the Statement of Basis, the Illinois EPA deemed the additional reporting time necessary to correct mistaken assumptions in the timeframe originally selected for the notification period. See, *Statement of Basis, page 46*. The explanation further noted that the added time would pose no effect on how the Illinois EPA would respond to the notifications. This is because the window of time for each notification period is only incrementally longer than before and, ultimately, neither adds nor detracts from any subsequent evaluation performed by the Illinois EPA in its review

of excess emissions.

Comment IV.B.2 -

The Proposed Changes to SSM Reporting Requirements Would Make It Harder to Enforce Limits -Reporting Times for Startups

The proposed changes to reporting for startups are problematic. The initial CAAPP permit established heightened reporting requirements for startups of the coal-fired boilers at the Powerton Station that would take longer than 6 hours on the basis that even if the boilers were not operating at full capacity within 6 hours at least it should be able to reliably operate pollution control technologies. The revised draft permit would increase the time before Midwest Generation has to explain long startup times *more than four-fold* to 28 hours for the first boiler, and to 8 hours for a second boiler, and in doing so, removing any of the heightened reporting requirements for startups lasting longer than 6 hours. See Condition 7.1.9(g) (ii) (C). Illinois EPA justifies this decision in its statement of basis by claiming that "typical startups of [Powerton-style] boilers can last as long as 28 hours for the first boiler and 8 hours for a second boiler." (Statement of Basis 22.)

Once again, this reduced reporting requirement will reduce Illinois EPA's future ability to ensure that Midwest Generation avoids inefficient startups and excess emissions during those periods for the coal-fired boilers at the Powerton Station. This is problematic because although the permit includes two conditions that apply during start up (see discussion of Condition 7.1.3(b) (ii) below), those conditions will not necessarily ensure compliance with relevant emission standards during the startup period. Although Midwest Generation must explain exceedances in its reporting, such exceedances are nonetheless allowed, and so there remains a disconcerting possibility that Midwest Generation could claim the startup exemption for exceedances over a 28-hour period on a regular basis, without any efforts to reduce the start-up period. Especially as compared to a 6-hour expected startup period, this change could have huge environmental impacts. As such, I urge Illinois EPA either to reconsider this reporting change, or to more carefully delineate the circumstances under which exemptions apply during different stages of an up-to-28 hour startup process.

Response:

As with the preceding comment, the Illinois EPA disagrees that extending the time period for a typical startup that is used to as a trigger for more detailed recordkeeping acts to diminish the ability of the Illinois EPA to address excess emissions that occur during startups. Moreover, the comment misconstrues the purpose of Condition 7.1.9(g). This condition was not designed to restrict the duration of

startup or incentivize minimization of the duration of startups.³⁰ Rather, its purpose is to obtain additional information about startup events that are "out of the ordinary" or atypical. If a given startup takes longer than normal, Midwest Generation must record the circumstances and any additional emissions resulting from the startup. As explained in the Statement of Basis, Condition 7.1.9(g) in the initial permit was based on an incorrect understanding by the Illinois EPA of the duration of a normal startup of a coal-fired boiler at the Powerton Station. As a result, this condition would have treated all startups as "out of the ordinary." This has necessitated the revision to this condition to reflect the actual duration of normal startups of boilers at the Powerton Station.

Comment IV.C -

The Permit Does Not Provide Sufficient Guidance to Control Unnecessary Exceedances during SSM Events

Another problem with the SSM provisions in the CAAPP permit is that they provide little guidance as to what exceedances are justified during different stages of SSM events. This raises the concern that Midwest Generation could take advantage of these periods to regularly violate SIP emission limitations that apply to various emission units at the Powerton Station. The permit would not provide guidance for what sort of startups or malfunction events might justify exceedances. For startups, this is what makes the extension of "standard" startup times to 28 hours so concerning. For malfunctions, the permit does not describe what sort of malfunctions are acceptable, in particular failing to explain what "essential service" would justify continuing to operate an emission unit during a malfunction.

National practice generally establishes clear guidelines for operation, which are designed to ensure sources are truly minimizing emissions from boilers as they warm up. For instance, USEPA's recent Mercury and Air Toxics Standards (MATS), 40 CFR 63 Subpart UUUUU, requires that coal-fired utility boilers "engage and operate [] PM controls as soon as possible and no later than 1 hour []after [initiating use of primary fuels]. After engagement of PM controls, EGUs are required to maintain clean fuel use to the maximum extent possible until the end of startup (i.e., 4 hours after the start of generation of electricity or useful thermal energy)."^{31, 32} In contrast to this tailored

³⁰ Midwest Generation's obligation to minimize emissions during startups is addressed elsewhere in the CAAPP permit. For the coal-fired boilers, Condition 7.1.3(b)(i) provides that Midwest Generation is not relieved from the continuing obligations to demonstrate that all reasonable efforts are made to minimize startup emissions, duration of individual startups and frequency of startups. Condition 7.1.3(b)(ii) further provides that Midwest Generation must conduct startups of the boilers in accordance with written procedures that are specifically designed to minimize emissions from startups.

³¹ USEPA, *Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units*, 79 FR 68777 (Nov. 19, 2014).

approach, the proposed permit would establish one monolithic startup period for the first boiler, defined as the period "from the initial firing of fuel in th[e first] boiler to stable operation of the corresponding EGU at load," during which time a boiler is authorized to emit additional particulate matter and carbon monoxide. See Condition 7.1.9(g) (ii) (C).

The permit does include two substantive operational requirements for startups that will act to lower emissions. It requires the "[u]se of auxiliary fuel burners to heat the boiler prior to initiating burning of coal," which would reduce the amount of coal burned before a boiler reaches full operation. It also requires that ESPs, the particulate control devices, be energized "as soon as this may be safely accomplished without damage or risk to personnel or equipment." See Condition 7.1.3(b) (ii) (A) and (B). While these measures will act to reduce emissions during startup, they are not sufficiently specific to enable enforcement. For instance, the ESP requirement does not include any guidance for how to determine when the ESP can be started safely. The Illinois EPA should provide more enforceable guidelines for these control requirements, in particular explaining when and for how long during the startup process these controls might be expected to be put in place, and what amount of time (operating the auxiliary fuel burners or waiting to activate the ESP) would constitute a violation.

Response:

This comment does not justify the changes to the CAAPP permit that are requested. This comment again confuses the stated duration for a normal startup for the coal-fired boilers, which is only relevant for recordkeeping that is required, with the actions that Midwest Generation must take to minimize emissions during startups of these boilers. With respect to actions taken during startup to minimize particulate emissions, this comment misrepresents the requirements of the MATS rule, describing only one of the options that is available for startup. Alternatively, a source may calculate the emission rate for each hour of startup, collecting appropriate data during startup with the continuous monitoring systems. With respect to the timing of the specific measures required by the permit, i.e., use of auxiliary fuels and energization of the ESP, these measures are governed by the introductory language to the relevant condition, Condition 7.1.3(b) (ii). This condition requires that these measures shall be implemented so as to minimize emissions from startups.

Incidentally, the additional provisions in the CAAPP permit that are generally requested by this comment are in direct

³² A 2013 USEPA assessment shows a large variance in how long coal-fired utility boilers take to generate electricity after starting combustion of coal. However, it concludes that SO₂ and NO_x emissions of coal-fired utility boilers can begin to be controlled within a few hours of starting electrical generation. Peter Kokopeli, Jeremy Schreifels & Reynaldo Forte, USEPA Office of Air and Radiation, *Assessment of Startup Period At Coal-Fired Electric Generating Units* (June 17, 2013).

contradiction to earlier comments by this commenter. The earlier comments argued that no exceedances of state emission standards during SSM should be condoned by the CAAPP permit for the Powerton Station. In this comment, further specificity is now requested on exceedances during SSM that should be condoned. Moreover, earlier comments requested that the CAAPP permit explicitly provide that it does not preclude enforcement by parties other than the State of Illinois. This comment now requests that provisions be included in the permit that would act to impede the success of such enforcement. However, as already discussed, the Illinois EPA believes it would be improper to include such provisions in the body of the permit as it would be contrary to the provisions of the relevant states rules addressing emission exceedances during startups and malfunction events. It would also potentially hinder enforcement by the State of Illinois for emission exceedances during such periods.

Comment V.A -

The CAAPP Permit Should be Revised to Reduce the Length of Time Before PM Emissions Testing Is Required

The revised CAAPP permit would remove and weaken many inspection requirements from the initial CAAPP permit. Inspections are a crucial element of ensuring that permit holders demonstrate reasonable assurance of compliance with all state and federal emission standards. Otherwise, reduced inspection standards create the risk of unsafe operating conditions by either perpetuating issues that already exist, or allowing preventable issues to develop.

In particular, draft revised Condition 7.1.7(a)(i) would increase the length of time following effectiveness of the permit before Midwest Generation must conduct testing for the PM emissions of the coal-fired boilers. The initial CAAPP permit required these tests be conducted 180 days after the effectiveness of the condition; however, the draft revised permit would double this time to one year following the effectiveness of the condition. PM emissions testing is crucial to ensure that the coal-fired boilers comply with the applicable state emission standard for PM. Doubling the amount of time before PM emission testing must be conducted raises the risk that the boilers operate with excess emissions for an additional six months.

Response:

Based on the past testing that has been conducted for the coal-fired boilers at the Powerton Station, it should not be expected that future testing will show violations of the PM emission standard that current applies to these boilers.³³ The time to complete the initial PM testing of the coal-fired boilers pursuant to this permit was changed from 180

³³ The PM tests for these coal-fired boilers are important as they will provide authoritative data for the current emission rates of the boilers when operating normally. They will also provide information on the margin of compliance, i.e., the difference between the actual emission rate and the allowable emission rate.

days to no later than one year after the condition becomes effective to provide Midwest Generation with sufficient time to coordinate necessary training and scheduling to implement all of the new requirements imposed by the permit once it is issued. This resolved the challenge to this condition in Midwest Generation's appeal of the initial CAAPP permit.

In fact, since Midwest Generation has requested conditional approval of the CAM Plan for PM emissions of the coal-fired boilers, testing of the boilers for PM must be completed within 120 days of the issuance of the revised permit.

Comment V.B -

Illinois EPA Should Revise the CAAPP Permit to Reinstate the Previous Trigger for PM Emissions Testing When Operating at Higher Loads

The draft revised permit would weaken the load-based trigger for requiring further PM emissions testing of a coal-fired boilers if it operates at a load higher than the load at which testing was most recently conducted. See Condition 7.1.7(a)(ii). The initial CAAPP permit required testing when loads were more than two percent greater than the load at which testing occurred. However, under the revised CAAPP permit, the load would need to be the greater of 10 Megawatts or five percent higher than the load at which testing was last conducted to trigger further PM emissions testing. This would be a more significant departure from testing conditions than accommodated by the initial permit. The original trigger should be retained.

The draft revised permit also extends the duration of time during which the coal-fired boilers could operate at this higher load—from 30 hours to 72 hours per quarter—before triggering the need to conduct further PM emissions testing. Allowing a boiler to operate at a higher load than the level at which testing was conducted for an aggregate of three days before triggering further emissions testing would jeopardize Midwest Generation's obligation to assure compliance with PM standards.

The Statement of Basis justifies these alterations by stating that the original criteria "were not appropriately tailored" to the coal-fired boilers at the Powerton Station, and "would *potentially* have required that testing for PM emissions be conducted in circumstances in which it would not have been warranted." (Statement of Basis at 18) (emphasis added). However, it does not provide any additional information that might help explain this decision. Accordingly, how were the criteria not originally appropriately tailored to these boilers? Why would testing under the original criteria potentially be required to be conducted in circumstances in which it would not be warranted?

Response: _

The original criteria was not appropriately tailored to the coal-fired

boilers because the Illinois EPA did not consider the effect of seasonal weather conditions on the maximum load at which the boilers can be operated at different times of the year. The capacity is highest in the winter when the air is coldest and densest and the temperature of the water in the cooling system is lowest. The capacity is lowest in the summer when the air and water are warmer. The role of the independent system operator in managing the level at which boilers may be operated during the period of testing was also not considered. The presumption underlying the original criteria was that PM emission testing could always be readily conducted very near the greatest load at which the boilers would ever need to be operated over the course of a year. In fact, because of the above considerations PM testing may only be able to be conducted at loads that are near to the greatest load at which the boilers would need to be operated over the course of a year.

The original condition would potentially have required further PM testing in circumstances in which it would not be warranted because, the purpose of the condition was to assure that testing is conducted when the boilers are operating in the maximum load range.

Comment V.C -

CO and PM Emissions Testing Should Be Performed at the Affected Boilers' Maximum Operating Loads

Condition 7.1.7(b) (i) of the initial CAAPP permit required CO and PM emissions testing to be performed at the maximum operating loads of the affected boilers. However, the draft revise permit would only require that measurements be performed at 90 percent or better of the "seasonal" maximum operating loads. First, what is meant by the word "seasonal" in this condition is unclear. Second, CO and PM emissions should be measured under operating conditions that would lend themselves to the highest level of emissions. Otherwise, there might be a spike in emissions between those reflected in testing and those that occur when the affected boilers are operating at maximum operating loads. Thus, the permit should provide for CO and PM emissions testing at maximum operating loads to ensure that authorities are aware of the maximum emissions levels that might occur.

Response:

The revised condition requires emission testing of the coal-fired boilers to be conducted while they are operating in the maximum load range while also recognizing that the capacity of utility boilers varies slightly based on the season of the year, as already discussed. The differences in capacity are relatively small but Midwest Generation was concerned that this seasonal difference in the capacity of the boilers be recognized in the provisions of the CAAPP permit. In actual practice, given the relatively small variation in boiler capacity, this is not expected to affect the representativeness of test results.

Comment V.D -

Midwest Generation Should Not Determine CO and PM Emissions Compliance by Averaging Test Runs

Condition 7.1.7(b) (iii) (B) of the draft revised permit allows Midwest Generation to determine compliance by using the average of three valid test runs when calculating measurements of CO and PM emissions for the coal-fired boilers. This averaging masks individual spikes in emissions, and therefore could easily hide emission violations. The Statement of Basis explained that this provision was changed to make its language consistent with similar provisions for coal handling equipment and fly ash equipment in Conditions 7.2.7(b) (ii) (B) and 7.4.7(b) (ii) (B), respectively. (Statement of Basis at 68). However, there is no reason that these conditions need to be consistent, especially considering the very different emissions profiles and operations of coal handling equipment compared to the boilers. Testing requirements for CO and PM emissions from coal-fired boilers, coal handling equipment, and fly ash equipment should be completely independent of one another. The permit should not alter testing procedures that understate peaks in CO and PM emissions solely to unify language across sections of the permit.

Response:

The proposed revision to Condition 7.1.7(b) (iii) (B) would make clear that when a stack test is conducted, the results of valid test runs must be averaged to determine compliance with emission limits. This is well-established practice for emissions testing as recognized by 40 CFR 50.8(f). It is specifically provided for in Illinois by 35 IAC Part 283. This approach to emission testing would be required regardless of whether this condition was in the permit or not. Since the revised language was included in Conditions 7.2.7(b) (ii) (B) and 7.4.7(b) (ii) (B), it was also added to Condition 7.1.7(b) (iii) (B) for completeness and clarity. Particularly given there are exceptions in 35 IAC Part 283 that would require the use of one stack test run rather than an average of three runs. This clarification simply makes it clear that none of these exceptions apply and no confusions could be imparted because of the absence of such affirmation. Other changes would not be made to the conditions of the permit discussed in this comment.

Comment V.E -

The CAAPP Permit Should be Revised to Reduce the Lapse of Time Between Opacity Observations Conducted Under Reference Method 9

The draft revised permit would significantly extend the amount of time between opacity observations conducted in accordance with Reference Method 9 under Conditions 7.2.7(a) (i) (A) - (B), 7.3.7(a) (i) (A) - (B), and 7.4.7(a) (i) (A) - (B). These observations previously were required to be conducted within three months of permit issuance, and thereafter at least annually. However, under the revised draft permit, these observations must take place no more than two years after the

effectiveness of the condition, and triennially thereafter. In justifying this change, Illinois EPA stated that requirements for regular inspections of the affected units pursuant to Conditions 7.2.8, 7.3.8, and 7.4.8 allowed for opacity observations to be conducted at least annually. (Statement of Basis at 37). However, these opacity observations pursuant to Conditions 7.2.8, 7.3.8, and 7.4.8 are not required to be in accordance with Reference Method 9. The permit should retain the more frequent opacity observations that originally would have been required.

Response:

These conditions were appropriate as drafted. Midwest Generation is provided the option of using Method 22 because some of the equipment to be observed should not have any visible emissions. For such units, Method 22 is an appropriate test method for such observations.

The proposed revisions to Conditions 7.2.7(a)(i)(A) - (B), 7.3.7(a)(i)(A) - (B), and 7.4.7(a)(i)(A) - (B) regarding frequency on Reference Method 9 opacity observations was combined with the proposed revisions to Conditions 7.2.8, 7.3.8, and 7.4.8 regarding periodic inspections of emission units. The end result of these proposed revisions is that that all affected operations or process addressed by these sections of the permit must be observed for visible emissions on an annual basis. The source is allowed to use Reference Method 22 for these observations, which do not require a certified observer, however, the source must complete an opacity observation in accordance with Reference Method 9 within one week of observing any visible emissions which cannot be corrected within two hours of completing an observation in accordance with Reference Method 22. The revisions to Conditions 7.2.7(a)(i)(A) - (B), 7.3.7(a)(i)(A) - (B), and 7.4.7(a)(i)(A) - (B) ensure that an opacity observation must be completed in accordance with Reference Method 9 at least every 3 years. Illinois EPA believes this proposed monitoring strategy is appropriate for the affected operations and processes defined in Sections 7.2, 7.3 and 7.4 of this permit and will not be making any additional revisions to the permit conditions noted in this comment.

Comment V.F -

The CAAPP Permit Should Increase the Frequency of Combustion Evaluations for the Coal-Fired Boilers and the Natural Gas-Fired Boiler

Revised Conditions 7.1.6 and 7.6.6(a)(i) reduce the nature and frequency of combustion evaluations for the coal-fired boilers and natural gas boiler. The permit previously required Midwest Generation to conduct combustion evaluations of these boilers quarterly, and the revised draft cut this frequency to only semi-annually for the coal-fired boilers and annually for the natural gas boiler. Doubling the interval between evaluations risks a several-month delay in detecting any combustion issues with the boilers.

Furthermore, the language of the condition no longer requires Midwest Generation to take preventative measures in response to combustion evaluations, and includes only language making adjustments in response to the evaluations voluntary. According to the Statement of Basis, Midwest Generation claimed that "its ability to make 'adjustments and preventative and corrective measures' [for the coal-fired boilers] was constrained by the bounds of technical feasibility." (Statement of Basis at 17). However, the Statement of Basis does not explain why this was the case. The proactive approach of taking preventative measures would eliminate problems with the boilers before they start. Otherwise if foreseeable problems do occur, Midwest Generation would have the discretion to merely react to them after the fact. It would be wholly inappropriate for Midwest Generation to continue to operate the boilers if Midwest Generation had knowledge that there was a need for preventative maintenance. Therefore, Conditions 7.1.6 and 7.6.6(a)(i) should be revised to require quarterly combustion evaluations of the boilers and mandatory preventative measures in response to evaluations.

Response:

This comment does not show that more frequent combustion evaluations are appropriate. In addition the comment merely highlights the flaw with these conditions in the initial permit that led them to being appealed.

Comment V.G -

Illinois EPA Should Reinstate the Requirement to Measure CO Emissions of the Natural Gas-Fired Boiler

Revised Condition 7.6.7(b) would no longer require Midwest Generation measure the CO emissions of the natural gas-fired boiler upon request by the Illinois EPA. Illinois EPA justified this change for the following reasons: 1) The boiler only burns natural gas, which can be readily burned to comply with the CO standard; and 2) "combustion evaluations must be conducted on a *regular basis* to verify and maintain efficient combustion." (Statement of Basis at 47-48) (emphasis added). First, according to the USEPA, "[t]he rate of CO emissions from [natural gas] boilers depends on the efficiency of natural gas combustion."³⁴ Therefore, it is improper to blindly assume that the rate at which natural gas will be burned will assure compliance with the CO standard. Second, Illinois EPA inaccurately claims that combustion evaluations will be conducted on a "regular basis." Per Condition 7.6.6(a)(i), the rate at which combustion evaluations will occur was reduced to 25 percent of the rate at which they would have been conducted in the issued permit. Condition 7.6.7(b) should revert to the language requiring that Midwest Generation measure the CO emissions of the natural gas

³⁴ See USEPA, *Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources* (AP 42), Fifth Edition, Chapter 1, Section 1.4.11.

boiler.

Response:

This comment does not show that Condition 7.6.7(b) should be retained in the revised CAAPP permit. While it is correct that the combustion efficiency of this boiler will affect its CO emission rate, this does not show that compliance with the applicable CO standard necessitates an especially high level of combustion efficiency. The additional fact that is relevant to this change to the CAAPP permit is the numerical value of the applicable CO standard for, 200 ppm, corrected for 50 percent excess air, per 35 IAC 216.121. This standard was originally adopted at a value that large fuel combustion emission sources will "have no trouble meeting."³⁵ For this purpose, a large boiler was a boiler with a heat input capacity of 10 mmBtu/hour or more. The rated capacity of this particular boiler is more than 200 mmBtu/hour of heat input.

Upon further consideration the Illinois EPA has also concluded that annual combustion evaluations will be more than adequate to assure compliance with this standard. The minimum frequency for combustion evaluations required by USEPA in its NESHAP standards for boilers is annually.

Comment VI -

Revisions to the Permit Do Not Provide Adequate Recordkeeping (1st to 3rd para.)

In draft Condition 7.1.9(c)(ii), the Illinois EPA proposes to delete the requirement to identify the "upper bound of the 95% confidence interval (using a normal distribution and 1-minute averages) for opacity measurements from the boiler[s], considering an hour of operation, within which compliance with [PM emission limits] is assured" Illinois EPA also proposes to delete the corresponding recordkeeping requirement in Conditions 7.1.9(c)(iii), that Midwest Generation keep records for "[e]ach hour when the measured opacity of an affected boiler was above the upper bound"

The revised Conditions do not meet the Title V/Part 70 requirement that monitoring must provide data representative of the source's compliance with the underlying permit limits, 40 CFR 70.6(a)(3)(i)(B), (c)(1). As USEPA has determined numerous times in orders, where opacity is used as a parameter to ensure compliance with a PM limit, the opacity range correlating to compliance with the PM emission limit must be "set as enforceable limits" in the permit. *In the Matter of Tampa Electric Co., F.J. Gannon Station*, Objection to Proposed Part 70 Operating Permit No. 0570040-002-AV at 8 (Sept. 8, 2000); see also *In the Matter of the Huntley Generating Station*, EPA Administrator Order at 21 (July 31, 2003) ("the title V permit must include a specific opacity limit [in the PM limit sections of the permit] that would

³⁵ Illinois Pollution Control Board, *Opinion and Order*, R 71-23, April 13, 1972.

correlate to the PM limit [in the permit]."); *In the Matter of Dunkirk Power LLC*, EPA Administrator Order at 20 (July 31, 2003) (holding that operating outside of the parameter range constitutes a violation of the permit); *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*, EPA Administrator Order at 20 (Sept. 22, 2005) (requiring that opacity used as a surrogate for PM to satisfy Part 70 monitoring requirements must "include a correlation between th[ose] measurements and compliance with the PM emission limitations."). In fact, USEPA has required that the correlation be set so that it provides direct evidence of compliance or non-compliance with the permit. *In the Matter of Dunkirk Power LLC*, EPA Administrator Order at 19-20 ("Once operating ranges have been established for the ESP operating parameters, operating the ESP outside of any of these ranges would constitute a violation of the title V permit." (emphasis added)). As a result, the permit fails to meet the requirement that it include "monitoring ... requirements sufficient to assure compliance with the terms and conditions of the permit." *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*, EPA Administrator Order at 19 (citing 40 CFR 70.6(a)(3)(i)(B) and 70.6(c)(1)). The permit must be revised to include an enforceable opacity limit corresponding to violation of PM emission limits, set no higher than the 30 percent opacity limit provided for in the Illinois SIP. While 35 IAC 212.124(d)(2)(A), a provision in Illinois SIP, already provides that a violation of the 30 percent opacity limit in 35 IAC 212.123 presumptively constitutes a violation of the applicable PM standard, a lower limit for opacity may be necessary to ensure compliance with the PM standard.

With the proposed revision to Condition 7.1.9(c)(iii), Midwest Generation would only be required to keep records of the date, time, measured opacity, operating condition, and other information of "three hour block averaging period[s]" (emphasis added) with average opacity above 30 percent. This is further insufficient to ensure compliance with the applicable PM limit. Again, the applicable PM limit is based on an hourly average. 35 IAC 212.202. Midwest Generation should be required to keep detailed records of any one-hour period with average opacity above the applicable opacity limit.

Response:

The proposed changes to Condition 7.1.9(c) would not result in the Periodic Monitoring for the coal-fired boilers at the Powerton Station being insufficient. The changes to this condition maintain consistency with 40 CFR 70.6(a)(3)(i)(B) (Section 39.5(7)(d)(ii) of the Act).^{36, 37}

³⁶ 40 CFR 70.6(a)(3)(i)(B) provides as follows:

(3) *Monitoring and related recordkeeping and reporting requirements.* (i) Each permit shall contain the following requirements with respect to monitoring: ... (B) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported

Compared to the initial permit, essentially all that has occurred in Condition 7.1.9(c) of the issued permit is that a specific value for the level of opacity, 30 percent, 3-hour average, is now set as part of the Periodic Monitoring to assure compliance with the PM standard for the Powerton Station boilers. This value takes the place of the statistical criterion or "method" that would have been required for the future establishment by the Powerton Station of value(s) of opacity that would serve to assure compliance with the PM standard.³⁸ The "alternative" approach to Periodic Monitoring for the coal-fired boilers for PM that is now present in the revised permit is consistent with the relevant conclusion from the USEPA's decision in *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*.³⁹ This order does not state or suggest that the value of opacity that is selected for Periodic Monitoring must directly correlate with a violation of the PM standard, as implied by this comment:

In this case, since Illinois EPA used opacity and (sic) as one of the surrogate methods to assure compliance with PM limits, the Title V permit must include a specific opacity limit or a method for determining an opacity limit that would correlate the results of the PM testing results (sic) and the opacity limit. *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*, USEPA Administrator Order (Sept. 22, 2005), p 20.

Finally, this comment has not demonstrated that the 30 percent opacity limit in 35 IAC 212.123(a) has the role suggested by this comment for the CAM Plan required under 40 CFR Part 64 to address compliance of the coal-fired boilers at the Powerton Station with the applicable PM standard in 35 IAC 212.202. The indicator range for opacity under the CAM Plan could be higher than 30 percent if such higher value would provide a reasonable assurance of compliance with 35 IAC 212.202. However, Midwest Generation has reasonably chosen to set the indicator range at

pursuant to paragraph (a)(3)(iii) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(i)(B) of this section.

³⁷ 40 CFR 70.6(c)(1) does not appear to impose any additional requirements for the subject monitoring. As reiterated by USEPA in the order for the Waukegan Generating Station cited by this comment, "EPA has interpreted section 70.6(c)(1) as requiring that title V permits contain monitoring required by applicable requirements under the Act (e.g., monitoring required under federal rules such as MACT standards and monitoring required under SIP rules) and such monitoring as may be required under 40 CFR 70.6(a)(3)(i)(B)." *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*, EPA Administrator Order (Sept. 22, 2005), p 19.

³⁸ By way of further explanation, Midwest Generation appealed Condition 7.1.9(c)(ii) in the initial CAAPP permit, which would have required it to develop a value for opacity based on the results of emissions testing, with a numerical value for opacity set at the "upper bound of the 95 percent confidence interval." Midwest Generation argued that this requirement imposed an "unreasonable burden" and would not generate information that could be used in conjunction with other actions to address compliance with the PM standard(s). Settlement discussions confirmed the difficulties in this condition of the initial permit. Among other things, it required the correlation between opacity and PM emissions to meet a statistical criterion as related to the confidence interval. This criterion would not necessarily be able to be met given the nature of the correlation between opacity and PM emissions and the data that would be available from emissions testing to develop the correlation.

³⁹ The USEPA's Order in *In the Matter of Midwest Generation, LLC, Waukegan Generating Station*, is considered the appropriate guidance from USEPA for this proceeding. This is because it is more recent and addressed Title V permitting of a coal-fired power plant in Illinois.

30 percent. This is because opacity greater than 30 percent on a three-hour average from the coal-fired boilers would, in practice, almost certainly be accompanied by violations of 35 IAC 212.123.

Comment VI -

Revisions to the Operating Permit Do Not Provide Adequate Recordkeeping Processes (4st para.)

Following PM emission testing, Midwest Generation may determine that the percent opacity that constitutes a PM violation may be well below this 30 percent limit. It would therefore be inappropriate for Midwest Generation to not keep record of all PM violations that do not exceed 30 percent opacity. Although the Statement of Basis notes that this 30 percent value is "potentially mutable," this possibility is not reflected in the draft CAAPP permit. (Statement of Basis at 21). The CAAPP permit should ensure that this 30 percent parametric monitoring limit can be revised downward if a more stringent limit is necessary to ensure of compliance with applicable PM standard.

Response:

It is implicit in the conditional approval of the CAM Plan that an indicator range less than 30 percent may eventually be set based on the results of the required PM testing. It must again be mentioned that the indicator range will be set at a level at which compliance with the state PM standard, 35 IAC 212.202, is reasonably assured. This will not mean that opacity higher than this level indicates a violation of the PM standard.

Comment VI -

Revisions to the Operating Permit Do Not Provide Adequate Recordkeeping Processes (5nd para.)

Recordkeeping requirements for the COMS in Condition 7.1.9(c)(ii)(B) would be revised to require a description of, rather than an explanation for, opacity exceedances unless other information shows that PM emissions exceed the applicable state PM standard, 0.1 lb/mmBtu in any one-hour period. Records that include explanations of opacity exceedances are necessary to enable Illinois EPA and the public to bring enforcement actions for opacity violations. Without PM CEMs, there generally will not be records indicating that PM emissions standards were exceeded. Indeed, that is why opacity is being used as the CAM indicator for PM. Explanations of opacity violations are thus necessary to show whether an incident was occurring and, thus, whether particular permit provisions concerning the incident apply. These revisions would seriously compromise information that is available for violations.

Response:

In this context, the difference between an "explanation of an incident" and a "description of an incident" is not considered significant. The Illinois EPA concluded that a minor change in

terminology was warranted to resolve the appeal of the subject recordkeeping requirements.

Comment VII.A -

The Reporting of Opacity Measurements During Each Six-Minute Period, During Exceedances, Should be Reinstated

The revised CAAPP permit would remove and weaken many reporting requirements from the initial CAAPP permit. Reporting keeps Illinois EPA updated on any problems at the Powerton Station, giving Illinois EPA and Midwest Generation the opportunity to work together to resolve any issues. Furthermore, Midwest Generation must engage in adequate reporting to provide Illinois EPA and the public with the information necessary to demonstrate reasonable assurance of compliance with the law.

In particular, Illinois EPA proposes to remove the requirement under Condition 7.1.10-2(d)(iv)(A)(IV) that Midwest Generation include in quarterly operating reports "[t]he percent opacity measured for each six-minute period during the exceedance." In the Statement of Basis, Illinois EPA asserts that the condition has been changed because "the revised permit relies upon opacity of emissions on a 3-hour average, rather than on a 6-minute average, as the indicator of compliance of the coal-fired boilers with 35 IAC 212.202." (Statement of Basis at 26). Again, a three-hour block average cannot assure compliance with an hourly emission limit. Moreover, this explanation does not provide a basis for deleting the requirement to report percent opacity measured during a violation of PM emission limits. Given that opacity is continuously monitored by the COMS, the requirement to report opacity in six-minute increments is not burdensome, but supplies useful information to both Illinois EPA and the public to enforce other permit requirements. This condition should be retained.

Response:

This condition does not need to be retained as requested in the comment. As noted in the comment, the requirement to include in quarterly operating reports the percent opacity measured for each six-minute period during an exceedance was removed from the CAAPP permit because the permit relies upon opacity on a 3-hour average, rather than a 6-minute average. This is the basis for removing the requirement as specifically discussed in the Statement of Basis. The comment further states that given that the opacity is continuously monitored by the COMS the requirement to report opacity in six minute increments is not burdensome. This condition was also revised to require the qualitative or if available quantitative magnitude of the exceedance (3-hour average and any supporting data i.e., 6-minute averages and 1 minutes averages) to be included in the quarterly report. Therefore any available data, including COMS data, would be included in the quarterly compliance reports. Additionally, the revision did not remove any requirement for other exceedance data, such as an opacity violation, to be included in this report.

Comment VII.B -

The CAAPP Permit Should Not Increase the Duration of Opacity Exceedances That Triggering Immediate Reporting

Condition 7.1.10-3(a)(i) would be revised to increase the duration of exceedance of the 30 percent opacity standard that triggers Midwest Generation's requirement to immediately notify Illinois EPA from five or more 6-minute averaging periods to eight or more periods. In the Statement of Basis, Illinois EPA asserts that the additional 18 minutes are necessary to provide "a reasonable opportunity for the source to complete corrective action so that the source would not need to undertake immediate reporting to the Illinois EPA for opacity exceedances that were relatively brief and accordingly likely minor in nature." (Statement of Basis at 25). This explanation is unreasonable. Pursuant to 35 IAC 212.123 and 212.124, opacity exceedances of two six-minute averaging periods constitute violations of the SIP's opacity and PM emission limits. Exceedances of thirty minutes in duration are serious violations that should be brought to Illinois EPA's attention immediately. The conditions allow Midwest Generation to notify Illinois EPA by "telephone (voice, facsimile or electronic)"—a process that with modern communication technologies would take one worker less than one minute. This process is not burdensome and would not interfere with the corrective action process. The Condition should be reinstated.

Response:

This comment does not show that the planned change to this condition was improper and that the initial condition should have been retained in the revised permit. Condition 7.1.10-3(a)(i) deals with reporting for continued operation of a boiler with excess opacity or PM emissions, including continued operation during malfunction or breakdown. It requires Midwest Generation to provide certain "incident specific" notifications and reports to the Illinois EPA for such incidents. All such incidents must also be reported in the quarterly reports under Condition 7.1.10-1(b) (periodic reporting of deviations) and Condition 7.1.10-2(d) (reporting of opacity and PM emissions). This comment specifically addresses the requirement in Condition 7.1.10-3(a)(i) that Midwest Generation must immediately notify the Illinois EPA when the opacity from a boiler exceeds the opacity standard for a specified number of 6-minute averaging periods, unless the Powerton Station has begun shutdown of the boiler by such time.

Midwest Generation appealed Condition 7.1.10-3(a)(i) in the initial permit. In the settlement negotiations, Midwest Generation explained that it objected to having to provide notifications for opacity exceedances at a point in time when the circumstances surrounding the exceedances may still be unfolding or investigations are only at an initial stage. It became apparent that some of the assumptions that the Illinois EPA had made when initially selecting a timeframe of 30 minutes (five 6-minute averaging periods) for immediate notification were not correct. The Illinois EPA had assumed that 30 minutes would

provide a reasonable opportunity for the Powerton Station to complete corrective action so that it would not need to undertake immediate reporting to the Illinois EPA for opacity exceedances that were relatively brief and accordingly likely minor in nature. In addition, it was expected that 30 minutes would provide adequate time for the Powerton Station to conduct an initial evaluation for more serious incidents, for which immediate reporting would be needed, so that such reports would be able to include useful information. Finally, it was also expected that 30 minutes would provide appropriate incentives for rapid implementation of corrective actions.

However, it is now recognized that 30 minutes is not adequate for these purposes. Therefore, the length of time before the immediate notification requirement is triggered has been increased from five to eight 6-minute averaging periods (30 minutes to 48 minutes). The Powerton Station will now have 18 additional minutes in which to correct the problem causing excess opacity or begin to shut down a boiler before it needs to provide immediate notification. This will more effectively accomplish the underlying purposes of the initial requirement. The resulting consequences for compliance are expected to be trivial given the relatively small amount of additional time that the Powerton Station has been provided.

Comment VII.C -

The Permit Should Keep Certain Reporting Related to 35 IAC 212.123(b)

For the coal-fired boilers, draft revised Condition 7.1.12(a)(ii)(E) would no longer require Midwest Generation to provide Illinois EPA with notice at least 15 days before changing its procedures associated with its reliance on 35 IAC 212.123(b) for the opacity of the boilers. This is problematic because, with such notification, the Illinois EPA would potentially be able review the revised procedures before Midwest Generation begins to implement them. Under the revised condition, Midwest Generation would only need to notify the Illinois EPA in its next quarterly report after it changes these procedures. The Statement of Basis states that the Illinois EPA need not review proposed changes to the type of short-term data, so long as Midwest Generation continues to satisfy all elements of 35 IAC 212.123(b) if it is relied upon. (Statement of Basis at 32). However, in order to determine whether this rule has been satisfied, there must be appropriate data in the first place. Therefore, existing Condition 7.1.12(a)(ii)(E) should be retained to afford the Illinois EPA the opportunity to review any changes in the type of short-term opacity data collected by Midwest Generation pursuant to Condition 7.1.12(a)(ii)(A).

Response:

Upon further consideration, the Illinois EPA has concluded that advance notice by Midwest Generation, as would have been required for certain changes to its procedures by Condition 7.1.12(a)(ii)(E) in the initial permit, is not warranted. The key purpose of this condition was to ensure that Midwest Generation was keeping appropriate short-term opacity for the boilers as is needed to

implement to 35 IAC 212.123(b). However, Condition 7.1.12(a) (ii) (A) clearly lays out the types of short-term opacity data that Midwest Generation must record as it elects to rely on 35 IAC 212.123(b), i.e., either a continuous chart recording for opacity, a record of discrete measurements of opacity taken no more than 10 seconds apart, or a record of 1-minute average opacity data.

Moreover, it is unlikely that the Illinois EPA would be able to complete any review of a planned change within the 15 day period that would have been provided by the initial CAAPP permit. 35 IAC 212.123(b), which is part of Illinois SIP, does not provide that a source must obtain approval from the Illinois EPA prior to reliance on this alternative to the generally applicable opacity standard in 35 IAC 212.123(a). Finally, the initial condition was overly broad as it could have been interpreted to extend to any change in procedures by Midwest Generation, including changes in the personnel that reviewed opacity data or the scheduling of this review.

Comment VII.D -

SO₂ Exceedances Should not be Reported Using Only Averaging

Draft revised Condition 7.1.10-2(b) (iii) (C) would require Midwest Generation to include in its quarterly reports exceedances of SO₂ emissions in one-hour and three-hour averages for each three-hour block of excess emissions. This block averaging would not provide an accurate overview of the trajectory of these exceedances and would not tell individuals reviewing such reports what the maximum SO₂ levels were. The permit should require reporting for SO₂ exceedances that does not consist of averages so that exceedances can be better understood.

Response:

As indicated in Condition 7.1.10-2(b) (iii) (C), the averaging period for the relevant SO₂ standard, 35 IAC 214.141, as addressed in Condition 7.1.4(c), is a three-hour block average. Accordingly, Condition 7.1.10-2(b) (iii) (C) requires that Midwest Generation report exceedances of this standard to the Illinois EPA. Since this standard applies on a three-hour block average, it is wholly appropriate to require that three-hour average SO₂ emission rates be provided in the quarterly compliance reports. Moreover, this condition also requires Midwest Generation to report the individual one-hour average emission rates that make up the three-hour block average. Since the boilers burn low-sulfur coal and do not rely on SO₂ control devices to comply with 35 IAC 215.141, this will provide the necessary information to understand any exceedance or deviations and what response is appropriate. In particular, this reported data will indicate whether the SO₂ exceedance is a consequence of unusually high sulfur content in the coal during a particular hour or reflects a longer increase in the sulfur content of the coal supply.

Comment VII.E -

The CAAPP Permit Must Be Revised to Remove the Potential for a De Minimus Exception for Opacity Violations

Condition 7.1.10-2(d)(ii) of the revised draft permit would lessen the stringency of the reporting requirements when excess opacity is less than one percent of the total operating time for an affected boiler during the calendar quarter, or if the opacity monitoring system downtime was less than five percent of the total operating time for an affected boiler during the quarter. USEPA has made it clear that there is no de minimus exception, and there has also never been a de minimus exception in the State of Illinois. This de minimus exception is problematic because it could protect the Powerton Station from certain enforcement actions, which would have the practical effect of unlawfully increasing the Powerton Station's total air emission limits. This de minimus reporting exception must be deleted from the permit.

Response:

The revisions to Condition 7.1.10-2(d)(ii) do not establish a "de minimus" level for opacity exceedances within which opacity is not considered or treated as violations, as claimed by this comment.⁴⁰ Rather the changes to Condition 7.1.10-2(d)(ii) relate to periodic reporting for continuous opacity monitoring systems.

Condition 7.1.10-2(d) was revised to accurately cite the reporting requirements applicable to the source in 40 CFR 60.7(d) which states:

(d) The summary report form shall contain the information and be in the format shown in figure 1 unless otherwise specified by the Administrator. One summary report form shall be submitted for each pollutant monitored at each affected facility.

(1) If the total duration of excess emissions for the reporting period is less than 1 percent of the total operating time for the reporting period and CMS downtime for the reporting period is less than 5 percent of the total operating time for the reporting period, only the summary report form shall be submitted and the excess emission report described in §60.7(c) need not be submitted unless requested by the Administrator.

(2) If the total duration of excess emissions for the reporting period is 1 percent or greater of the total operating time for the reporting period or the total CMS downtime for the reporting period is 5 percent or greater of the total operating time for the reporting period, the summary report form and the excess emission report described in §60.7(c) shall both be submitted.

Condition 7.1.10-2(d)(i) requires submittal of information on the performance of the opacity monitoring system and excess emissions as

⁴⁰ This comment appears to assume that a "de minimus exception" for opacity exceedances exists if the duration of opacity exceedances as a percentage of overall operating time of a boiler is less than one percent.

required for a "Summary Report" specified by 40 CFR 60.7(d) with every quarterly report, as required by 40 CFR 60.7(d) (1).

Condition 7.1.10-2(d) (ii) requires submittal of the "Summary Report" required by Condition 7.1.10-2(d) (i) as well as the additional information required by Conditions 7.1.10-2(d) (ii) and (iii) when total duration of excess opacity during the calendar quarter is 1 percent or greater of the total operating time for an affected boiler during the quarter or if the opacity monitoring system downtime was more than 5 percent of the total operating time for an affected boiler during the quarter, as required by 40 CFR 60.7(d) (2). Accordingly, these conditions accurately reflect the relevant federal reporting requirements in 40 CFR 60.7 that apply to continuous opacity monitoring systems.

Comment VII.F -

The CAAPP Permit Must Be Revised to Provide More Guidance on Reporting of Exceedances during SSM Periods

The draft revised permit generally reduces the quality of information Midwest Generation is required to provide for SSM events. For instance, whereas the original permit required Midwest Generation to report the "date, time, duration, and description" of any exceedances during startup, revised Condition 7.1.9(g) (ii) (B) would require reporting of the "nature of such exceedance(s), including the qualitative or, if available, quantitative magnitude" thereof. It is not clear exactly what the "nature of" reporting requires, but Illinois EPA provides no guidance for this new terminology in its statement of basis. (See generally Statement of Basis). Therefore, the revised permit should provide more thorough guidance on what reporting is required, and in particular ensure that Midwest Generation shares all relevant information relating to exceedances.

Response:

The revised CAAPP permit still requires appropriate records for startup of the coal-fired boilers. Upon further consideration during the course of settlement negotiations with Midwest Generation, the Illinois EPA has concluded that the recordkeeping for startups of the coal-fired boilers that would have been required by the initial permit could be significantly reworked while still requiring meaningful recordkeeping. The changes to the required records for startups, which this comment broadly characterizes as relaxations and summarily opposes, reflect the result of this reevaluation of these provisions by the Illinois EPA. The changes to these provisions also serve to address the appeal of these recordkeeping requirements in the original permit. Midwest Generation challenged these requirements as being as unreasonable given the rote nature of routine startups of the coal-fired boilers, which take place in accordance with its established procedures for startups. It also challenged these conditions as they extended to emissions during startups that complied with applicable standards.

Moreover, this comment does not accurately describe the changes that

have been made, suggesting that they relax the scope of the required recordkeeping. In fact the revised CAAPP permit still requires records for "the date, time and duration of each startup." This requirement was moved and never referred to excess emissions. With respect to emissions, the initial permit only required startup-specific information for the magnitude of excess emissions of PM or CO and whether applicable standards were exceeded for extended startups. Otherwise, for typical startups, the initial permit relied on information for emissions during typical startups. The revised CAAPP permit requires startup-specific information related to excess emissions for all startups. For this purpose, Midwest Generation must provide detailed information including "...an explanation of the nature of such exceedance(s), including the qualitative or if available, quantitative magnitude of such excess emissions." ⁴¹

Comment VIII.A -

Illinois EPA Should Revise the CAAPP Permit to Require Specific Control Measures for Coal Handling, Coal Processing, and Fly Ash Handling Equipment

The CAAPP permit should strengthen equipment standards that pertain to coal handling, coal processing, and fly ash equipment. Inadequate management of such equipment can lead to exceedances in fugitive emissions and noncompliance with federal and state laws.

In particular, Illinois EPA fails to require any specific control measures for coal handling, coal processing and fly ash handling equipment. The proposed modified conditions are so vague as to be unenforceable. In the original conditions, the emission sources were *required* to implement identified controls. Based on the revised language, though, it is impossible to know whether any specific control is required.

Midwest Generation is given too much discretion over its control measures, making this condition out of compliance with 40 CFR 70.6(a). Under Conditions 7.2.9(b)(i)-(iii), 7.3.9(b)(i)-(iii), and 7.4.9(b)(i)-(ii) Midwest Generation must maintain a record to reflect any changes in control measures for coal handling, coal processing, and fly ash handling and storage and equipment. This record for coal processing equipment and fly ash handling equipment must be accompanied by a demonstration that these measures are sufficient to ensure compliance with emission limitations. However, Midwest Generation is not required to seek Illinois EPA's approval in order to implement these changes. Finally, because Midwest Generation is given absolute discretion in selecting its control measures, if any, the public is denied the opportunity to meaningfully comment on these measures.

⁴¹ For exceedances of emission standard during startups, Condition 7.1.9(g)(ii)(B) also requires Midwest Generation to keep records related to the actions taken to minimize the magnitude and duration of excess emissions. It also requires records that explain whether similar events could be prevented in the future and, if so, a description of the taken or to be taken planned to prevent similar exceedance in the future.

I therefore concur with USEPA in its request that the proposed CAAPP permit: (1) Specify minimum control measures for coal handling, coal processing, and fly ash handling equipment by revising Conditions 7.2.6(a)(i), 7.3.6(a)(i), and 7.4.6(a)(i); (2) Require Illinois EPA to review and approve of any control measures selected by Midwest Generation by revising Conditions 7.2.9(b)(i)-(ii), 7.3.9(b)(i)-(ii), and 7.4.9(b)(i)-(ii); and (3) Incorporate the specific control measures, including the pertinent information on the control measures (description, frequency, and other information necessary to demonstrate compliance with applicable limitations), corresponding to each emission point into the permit during the reopening process.

Response:

See response to USEPA Comment 1 below.

Comment VIII.B -

The CAAPP Permit Should Be Revised to Include Several Emissions Units that Were Previously Removed (1st para)

The draft revised permit would remove all mention of several emissions units that are no longer subject to certain regulations. These are: (1) Coal crushing house; (2) Coal crushing operations; (3) Coal receiving operations; (4) Baghouses; (5) Dry fogger systems; (6) Dust suppressant application system; (7) Water sprays; (8) Dust collection devices; (9) Enclosures and covers; and (10) Wet dust extractor system. All equipment delineated in Conditions 7.2.2, 7.3.2, and 7.4.2 are denoted by the permit as "affected operations" or "affected process[es]" in Conditions 7.2.3(a)(i) 7.3.3(a), and 7.4.3(a). Under Condition 7.2.4(a), 7.3.4(a), and 7.4.4(a), fugitive emissions of these affected operations must comply with emission standards. Removing the above emission units no longer subjects these units to emissions standards compliance. However, the SIP in 35 IAC 212.301 and 212.313 places emission standards on any process and on all particulate collection equipment regulated under Conditions 7.2, 7.3, and 7.4. Therefore, the permit must reinstate all emission units deleted from these conditions in order to reasonably assure of compliance with applicable standards.

Response:

The proposed changes to Condition 7.2.2, 7.3.2 and 7.4.2 do not affect applicability of any emission standards as incorrectly suggested by this comment. Rather certain changes to these conditions were made to reflect terminology routinely used by Midwest Generation to refer to the relevant handing operations. As this will reduce possible confusion, this will enhance implementation of the permit.⁴² In addition, in Condition 7.3.2, "crusher house" was removed because the relevant emission units that process coal are the coal conditioners and not the building in which they are located.

⁴² In particular, in Condition 7.2.2, "coal receiving" was changed to "coal unloading by rail." In Condition 7.3.2, "coal crushing operations" was changed to "coal conditioners."

Emission control devices and emission control measures are no longer identified in Conditions 7.2.3, 7.3.3 and 7.4.3. This is because, as previously discussed in this document, control devices and control measures utilized for coal processing, coal handling and fly ash handling equipment must be specifically identified by Midwest Generation in the records required by Conditions 7.2.9(b)(i), 7.3.9(b)(i) and 7.4.9(b)(i).

Comment VIII.B -

The CAAPP Permit Should Be Revised to Include Several Emissions Units that Were Previously Removed (2nd para.)

Under Condition 7.2.3(a)(ii)(A) of the initial permit, coal conveying equipment was an "affected facility" for purposes of the New Source Performance Standards for Coal Preparation Plants, 40 CFR 60 Subpart Y, pursuant to 40 CFR 60.250(a) and 60.251. Why is coal conveying equipment no longer subject to this regulation?

Response:

The reason for this change is that the initial CAAPP permit erroneously indicated that certain coal conveying equipment at the Powerton Station were subject to the control requirements of 40 CFR 60 Subpart Y as they were new, modified or reconstructed units for the purpose of this NSPS. However, in settlement discussions, Midwest Generation confirmed that all of the coal conveying equipment at this source was constructed prior to October 24, 1974 and has not been modified or reconstructed thereafter. Accordingly, this error in the initial CAAPP permit has been corrected.⁴³

Comment VIII.C -

The CAAPP Permit Must be Revised to Provide for Adequate Inspections of Coal and Fly Ash Handling Processes (1st para.)

The draft revised CAAPP permit would not require adequate inspections of coal and fly ash handling processes. Among other inspection measures, Conditions 7.2.8(b), 7.3.8(b), and 7.4.8(b) direct Midwest Generation to inspect affected operations by either monitoring visible emissions ("VE") or opacity annually. This lack of regular monitoring or inspections is troubling. "Given that the majority of the affected equipment operates regularly throughout the year, it is not clear how the draft CAAPP permit inspection requirements and frequency of the required VE observations are adequate to yield reliable and accurate emissions data, as required by 40 CFR 70.6(a)(3)(i)(B)." USEPA Comments on the Powerton Station's Proposed CAAPP Permit, (May 15, 2015)

Response:

See response to USEPA comment 2 below.

⁴³ Condition 7.2.3(a)(ii) continues to address applicability of 40 CFR 60 Subpart Y for coal storage systems. This is because the West Coal Storage Silos are subject to applicable requirements of 40 CFR 60 Subpart Y for affected facilities under this NSPS that were constructed prior to April 28, 2008.

Comment VIII.C -

The CAAPP Permit Must be Revised to Provide for Adequate Inspections of Coal and Fly Ash Handling Processes (2nd para.)

For the coal handling, coal processing, and fly ash handling operations at the Powerton Station, the Periodic Monitoring required by the CAAPP permit must include inspections on a regular basis. The Illinois EPA should also have provided an explanation in the Statement of Basis for the draft revised CAAPP permit for how the control measures and monitoring requirements for each transfer point, coal pile, conveyor belt, and other fugitive emission points will assure compliance with all applicable opacity and PM limits. This should include a discussion of the relationship between monitoring frequency and applicable **emission limits**.

Response:

As generally discussed in the Statement of Basis, the regular inspections of coal handling, coal processing and fly ash handling required by Conditions in 7.2.8, 7.3.8 and 7.4.8, respectively, of the CAAPP Permit for the Powerton Station will serve to confirm that the relevant control measures are being properly implemented for these emission units. As discussed in other responses, these control measures must be developed to ensure compliance with the applicable standards, as set forth in Conditions 7.2.4, 7.3.4 and 7.4.4 of the CAAPP permit. As such, proper implementation of the control measures should ensure compliance. Formal verification of the proper implementation of control measures on a monthly basis (weekly basis for fly ash load out processes) is sufficient because these control measures will become part of the standard operating procedures for these units. In addition, proper implementation of the control measures for a unit is required at all times that the unit is in operation. Any lapses in the implementation of control measures are deviations and must be addressed in the records required by Condition 7.2.9(e), 7.3.9(d) and 7.4.9(d).

The CAAPP permit also includes requirements to confirm that the relevant control measures assure compliance with applicable standards. With respect to the opacity standard, as part of the regular formal inspections of these units, Midwest Generating is also required to conduct observations for visible emissions or opacity of some units during each inspection with all of these units observed for visible emissions or opacity at least once per calendar year. For coal processing equipment and fly ash handling equipment, which are subject to the PM emission standards in 35 IAC 212.321 or 212.322. Midwest Generation is required by Conditions 7.3.9(b)(ii) and 7.4.10(b)(ii) to maintain a demonstration that confirms that the control measures used for this equipment are sufficient to assure compliance with the applicable limits pursuant to these standards.

Comment VIII.D -

Illinois EPA Should Revise the CAAPP Permit's Inspection Requirements to Include Dust Collection Equipment

The revised draft CAAPP permit would no longer require Midwest Generation to perform detailed inspections of dust collection equipment, as was required by Conditions 7.2.8(b) and 7.3.8(b) of the initial CAAPP permit. Only Condition 7.2.8(b) was to include inspections of baghouses, specifically. It is inappropriate to no longer inspect all dust collection equipment for coal handling and coal processing. The Illinois SIP places emission limitations on particulate collection equipment, 35 IAC 213.313. To reasonably assure compliance with the SIP, Midwest Generation must conduct inspections of all dust collection equipment. The revised permit should retain the requirements of Conditions 7.2.8(b) and 7.3.8(b) of the initial CAAPP permit.

Response:

As already addressed in response to previous comments, Midwest Generation is required to conduct periodic inspections of all material handling and processing units while they are in operation. The revisions to Condition 7.2.8(b) of the initial permit (now Condition 7.2.8(c) in the draft revised permit) addressed the dust control devices for which additional "out-of-service" inspections are appropriate. For the Powerton Station, the baghouse on certain coal handling units was the only dust control device for which these additional inspections are appropriate. This is because PM emissions the coal processing and fly ash units at the Powerton Station are not controlled by any baghouses. The emissions of these units are controlled by work practices or bin vent filters.

The out-of-service inspections of the baghouse for coal handling are warranted due to the number of filter bags in this device which are automatically cleaned as part of the operation of the device. Internal visual inspections are appropriate to confirm the condition of the filter bags and absence of internal wear of fittings. These inspections may identify the need for preventative maintenance or repairs. Upon further consideration, the Illinois EPA has concluded that the bin vent filters at the Powerton Station do not have the internal parts and complexity of baghouses and do not warrant mandatory out-of-service inspections. Additionally, permit Condition 7.2.8(b) requires visible emission observations and corrective actions if visible emissions are observed. Accordingly, the revised CAAPP permit no longer requires out-of-service inspections for bin vent filters.

Comment VIII.E -

The Permit Should Require Periodic Inspections of Coal Handling, Coal Processing and Fly Ash Handling Equipment by Individuals Not Involved in Their Day-to-Day Operation

Conditions 7.2.8(a), 7.3.8(a), and 7.4.8(a) of the initial CAAPP permit would be revised to no longer require periodic inspections of the subject emission units to be conducted by individual "not directly involved in the day-to-day operation" of the units. Not requiring inspections to be conducted by individuals not directly tied to the operation of the units threatens conflicts of interest.

Illinois EPA would change these provisions to address Midwest Generation's concern that inspections be conducted by personnel with the requisite knowledge. (Statement of Basis at 38). However, requiring that inspections be conducted by individuals with a greater level of independence from the procedures does not preclude management and supervisory personnel from also conducting inspections. The Illinois EPA must retain the original conditions to the extent that they call for inspections to be conducted by individuals "not directly involved in the day-to-day operation" of the units. To address the concern regarding personnel having sufficient knowledge to conduct the inspections, Illinois EPA could add a requirement that the personnel conducting inspections "have the requisite knowledge to do so."

Response:

The concern expressed by this comment is addressed by the revised conditions as they now require sign off on the records for these periodic inspections by management or supervisory personnel. Accordingly, if the relevant manager or supervisor chooses to have another individual perform these inspections, the conditions clearly provide that such manager or supervisor retains the responsibility for the inspections. Moreover, the revised conditions should be more effective than the initial conditions as they require sign off by the relevant manager or supervisor. These individuals and their staff will have the requisite knowledge about the appropriate operation of the control measures for the subject units. They will also have the necessary training to safely conduct inspections of these units. The manager or supervisor will also have the authority and responsibility to initiate corrective actions if an inspections reveals an issue. While the initial conditions were written to require that these inspections be conducted by personnel who are not involved in day-to-day operations of the subject units, the conditions did not address other concerns that are relevant for these inspections.

Comment VIII.F -

The Public Should Have the Opportunity to Comment on Midwest Generation's Fly Ash Contingencies

Condition 7.4.3(b) (iii) of the initial CAAPP permit would not be carried over to the revised CAAPP permit. This condition required Midwest Generation to maintain a contingency plan for the handling and temporary stockpiling of fly ash if an affected process must be taken out of service. Instead, Condition 7.4.11(c) was added in the revised permit. Condition 7.4.11 grants Midwest Generation the ability to make certain physical and operational changes to critical fly ash equipment processes without any prior notification to Illinois EPA or revision of the permit. Condition 7.4.11(c) in particular, would provide that the temporary stockpile storage handling of such fly ash for offsite shipment would be "managed in accordance with the Fugitive Particulate Matter Operating Program required by Condition 5.2.4." However, the public is not afforded the opportunity to review the Fugitive Particulate Matter Operating Program. Rather, per Condition 5.2.4(a), the program would be

submitted to Illinois EPA outside of the permitting process. Therefore, either the requirements under Condition 7.4.3(b) (iii) relating to the fly ash contingency plan must be reinstated, or the public should be afforded the opportunity to comment on the Fugitive Particulate Matter Operating Program.

Response: _

The contingency plan for handling fly ash required by Condition 7.4.3(b) (iii) of the initial CAAPP permit was only applicable in the event of a malfunction or breakdown an affected fly ash handling process and associated repairs. During settlement negotiations to address the appeal of this "site specific" condition, Midwest Generation indicated that requiring a separate plan for handling and temporary storage of fly ash during malfunction or breakdown was unnecessary because the actions that would be taken would be addressed in the Fugitive Dust Operating Program. In addition, the condition would not address the handling of the fly ash collected from the interior of the boilers when they undergo maintenance and repairs.

Accordingly, Condition 7.4.11(c) was added to the CAAPP permit to address temporary stockpile storage of fly ash and handling of such fly ash for offsite shipment because such activities are addressed under the Fugitive Particulate Matter Operating Program required by Conditions 5.2.4 and 35 IAC 212.309(a). Since this approach also addresses malfunctions or breakdowns and associated repairs, there was no longer a need for a separate contingency plan for those situations. Condition 7.3.4(b) (iii) was removed from the permit and subsequent conditions were appropriately renumbered.

The relevant rules for Fugitive Particulate Matter Operating Programs do not provide for the Illinois EPA to subject such programs to public notice and comment, and do not contemplate an approval process overseen by the Illinois EPA. Future permit actions for this source will incorporate this program by reference and the current program will be available to the public for review as part of any public comment period for such permit actions.

Comment VIII.G -

Illinois EPA Should Reinstate Emission Limit and Recordkeeping Requirements deleted from Conditions 7.2.6(b) and 7.2.9(b) (ii) and (h)

The revised CAAPP permit would no longer contain Condition 7.2.6(b), which sets limits for the PM emissions of a new control device installed on the West Coal Silos for Unit 5.⁴⁴ The Statement of Basis, page 32, explains that these limits were no longer needed because they applied to a control device that no longer exists and emissions are now controlled by a new, different control device,

⁴⁴ The revised CAAPP Permit also would not include two related recordkeeping requirements. It would not include Condition 7.2.9(b) (ii), which required Midwest Generation to maintain a demonstration showing that the control measures for the Coal Silo for Unit 5 are sufficient to comply with the hourly PM limit. It also would not include Condition 7.2.9(h), which requires Midwest Generation to keep records of the monthly and annual PM emissions of this operation, as needed to confirm compliance with the annual PM limit.

which was the subject of a different construction permit. (Statement of Basis at 32). However, some of this equipment was replaced with other equipment of like kind, which should therefore be subject to the previous version Condition 7.2.9(b) (ii).

The Statement of Basis further justified these changes because the construction permit that sets emission limitations and recordkeeping requirements applicable to the current control device would be included in the CAAPP permit in the reopening. However, the Board granted Midwest Generation a stay of some of the relevant requirements in this construction permit, and the Statement of Basis does not provide which of these would be incorporated.

Thus, the CAAPP permit should be revised to reinstate emission limitations for the coal silo for Unit 5 if it, or a piece of equipment of like kind, exists. Also, the permit should require Midwest Generation to demonstrate that emission limitations, including those for coal handling equipment control measures, are met.

Response:

This comment does not show that the CAAPP permit should retain construction permit limits for emissions of a particular control device when that device no longer exists and was replaced by a new control device whose installation was properly addressed by another construction permit. The construction permit requirements for the current control device have a different origin than the permit requirements that were set for the prior control device. In this case, they are also substantively different. Moreover, as the current control device was permitted and installed after September 2005, the applicable permit requirements for the current control device can only be included in the CAAPP permit for the Powerton Station in the reopening proceeding. Until this proceeding is completed, for the new control device, Midwest Generation will need to directly comply with the terms and conditions of the construction permit that have not been stayed by the Board.⁴⁵

Comment IX -

The CAAPP Permit Should Provide an Enforceable Heat Rate

The revised draft CAAPP permit would not provide enforceable heat rate standards for the boilers or generating units at the Powerton Station. The CAAPP permit must provide enforceable heat rates to enable the public to calculate emission rates. The public can ascertain whether there are exceedances in permitted emissions if they have these heat rates. This is of particular importance for individuals may be affected by emissions from the Powerton Station. The revised permit should include enforceable heat rates.

⁴⁵ The Illinois EPA cannot circumvent the Board's stay by simply transferring the conditions in a construction permit that have been stayed into a CAAPP permit. The Board's stay acts to block the effectiveness of the subject conditions for purposed of both the construction permit program and the CAAPP.

Response:

This comment does not show that it is appropriate to include enforceable "heat rate" limits for the coal-fired boilers in the revised CAAPP permit.⁴⁶ The comment does not identify a rule that requires that such limits be included in the CAAPP permit.⁴⁷ Such limits also would not enable the public to determine whether there are exceedances of permitted emissions. In particular, the applicable emission standards that apply to these boilers are generally expressed as emission rates, in pounds of a pollutant per million Btu of heat input. They do not limit emissions in pounds of pollutant per hour.⁴⁸

Comment X -

The CAAPP Permit Should Indicate which Solid Fuels Will be Used

Under Condition 7.1.5(a) of the CAAPP permit, Midwest Generation may now use solid fuels other than coal at the Powerton Station. It is not clear from that condition what this means, however. The permit should include information on exactly what other solid fuels would be used at the station. In particular, is Midwest Generation already using solid fuels other than coal at this plant? What solid fuels does Midwest Generation intend to use in the future?

Response:

Condition 7.1.5(a) does not provide that Midwest Generation may now use solid fuels other than coal at the Powerton Station. Rather this condition was revised to better reflect the wording of the relevant state emission standards that apply to the coal-fired boilers at the Powerton Station. In particular, these boilers are subject to emission standards for PM and SO₂, at 35 IAC 212.202 and 214.141 respectively, for fuel combustion emission units using or burning "solid fuel." These emission standards are applicable to the boilers as coal is a solid fuel.

In fact, the only solid fuel burned by these boilers is coal. The Illinois EPA is not aware of any plans to begin supplementing this coal with another solid fuel. Before this could occur, Midwest Generation would likely have to obtain an air pollution control construction permit for the changes to the Powerton Station that would be needed to handle a solid fuel other than coal.

USEPA COMMENTS

USEPA Comment 1 -

Minimum Set of Control Measures

⁴⁶ The Illinois EPA assumes that this comment is actually requesting that the revised CAAPP permit include limits on the maximum heat input to the boilers, million Btu per hour. It is not actually requesting limits on the heat rates of the boiler as this term actually refers to the thermos-electric efficiency of the boilers, Btu heat input per kilowatt-hour of electricity generated.

⁴⁷ Limits on the maximum heat inputs to these boilers were not included in the initial CAAPP permit.

⁴⁸ The applicable CO limit, 35 IAC 216.121, also is a "relative limit" rather than an "absolute limit." It addresses the concentration of CO in the exhaust of the boilers. It does not directly limit the CO emissions of the boilers in pounds per hour.

The draft revised CAAPP permit would not specify a minimum set of control measures to be applied to coal handling, coal processing, and fly ash equipment to assure continuous compliance with applicable opacity and PM limits. The draft revised CAAPP permit would require the Permittee to implement and maintain control measures to minimize Visible Emissions (VE) of PM from coal handling, coal processing and fly ash equipment, and provide assurance of compliance with the applicable emission standards in conditions 7.2.4, 7.3.4 and 7.4.4.⁴⁹ The draft permit states that the Permittee shall implement and maintain "the control measures" for the affected operations, which apply to coal handling, coal processing and fly ash handling equipment. Condition 7.2.6(a) (i) (emphasis added). The draft permit further requires the Permittee to submit to Illinois EPA a record of the established control measures for each of the affected operations within 60 days of permit issuance.⁵⁰

As written, the draft CAAPP permit would not require the Permittee to use any specific control measures for coal handling, processing, and fly ash equipment. The draft permit would provide the Permittee to select any type of control measure(s), and provides the Permittee discretion to change those control measures. Therefore, the draft CAAPP permit does not comply with 40 CFR 70.6(a) because it does not contain sufficient operational requirements to assure compliance with the applicable opacity and PM limits for coal handling, coal processing and fly ash equipment.⁵¹ In addition, the draft permit does not provide the public with the opportunity to meaningfully comment on the selected control measures.

To address these concerns, the Illinois EPA should revise Conditions 7.2.6(a) (i), 7.3.6(a) (i) and 7.4.6(a) (i) to specify the minimum set of control measures for the coal handling, processing, and fly ash handling equipment. The Illinois EPA should also revise Conditions 7.2.9(b) (i) and (ii), 7.3.9(b) (i) and (ii) and 7.4.9(b) (i) and (ii) to require review and approval by Illinois EPA of the control measures selected by the Permittee. Finally, in the reopening proceeding, the Illinois EPA should incorporate in the permit the specific control measures, including the pertinent information on the control measures (description, frequency, and other information necessary to demonstrate compliance with applicable limitations), for each emission point.⁵²

Response:

The permit conditions addressed by the comment require the Powerton Station to implement control measures on the affected operations, as well as to "operate and maintain" those measures on an on-going basis.⁵³ The permit also requires the Powerton Station to create and

⁴⁹ See Conditions 7.2.6, 7.3.6 and 7.4.6

⁵⁰ See, e.g., Condition 7.2.9(b) (iii).

⁵¹ See, generally, Conditions 7.2.8, 7.3.8, and 7.4.8.

⁵² This is appropriate since the current permit will require the submittal of full documentation to support the selected control measures

⁵³ See, Conditions 7.2.6(a) (ii), 7.3.6(a) (ii) and 7.4.6(a) (ii).

maintain a list of various control measures being implemented,⁵⁴ which are currently identified in the permit as moisture content of the coal and fly ash, dust suppression, enclosures and covers,⁵⁵ and to apprise the Illinois EPA of revisions to the list.⁵⁶ The associated inspection and recordkeeping requirements⁵⁷ are designed to ensure that the control measures are being followed. Cumulatively, these control measures, recordkeeping and inspections establish the permit's approach to Periodic Monitoring for these affected operations.

The Illinois EPA established the use of control measures to facilitate Periodic Monitoring for the subject operations. Developed as work practice standards in the initial 2005 permit and retained in the negotiated revisions to the permit,⁵⁸ the use of control measures was deemed appropriate as one component of Periodic Monitoring for the affected operations.⁵⁹ This requirement provided a reliable and enforceable means of verifying compliance with the emission standards that apply to the affected operations (i.e., visible and fugitive emissions).⁶⁰ The legal basis for the control measures is derived from the authority of Section 39.5(7)(a) of the Act for the purpose of supporting Periodic Monitoring that does not stem from applicable requirements expressly derived from underlying regulations.

The nature of the permit requirements is analogous to regulatory programs under the Illinois State Implementation Plan⁶² and certain New Source Performance Standards.⁶³ Those programs typically require an affected source to identify best management (or good engineering) practices to minimize emissions as may be needed, or as appropriate, for site conditions. Within the regulatory framework, subject sources retain considerable latitude in selecting the type and suitability of control measures relative to circumstances that directly bear upon the usefulness and/or performance capabilities of those measures. Such flexibility enables sources to address varying types and degrees of site conditions, range of operation and changes in the characteristics of resulting emissions.

⁵⁴ See, Conditions 7.2.9(b), 7.3.9(b) and 7.4.9(b).

⁵⁵ See, Conditions 7.2.1 and 7.2.2, Conditions 7.3.1 and 7.3.2, and Conditions 7.4.1 and 7.4.2.

⁵⁶ See, Conditions 7.2.9(b)(iii), 7.3.9(b)(iii) and 7.4.9(b)(iii).

⁵⁷ See, Condition 7.2.8 and 7.2.9, Condition 7.3.8 and 7.3.9, and Condition 7.4.8 and 7.4.9 respectively.

⁵⁸ As previously noted, the requirements for control measures in the revised CAAPP permit are substantially identical to those contained in the initial CAAPP permit. The changes being made to these conditions depict mostly stylistic changes to the language and do not modify or alter the substantive elements relating to control measures.

⁵⁹ The Illinois EPA acknowledged this reasoning in the Responsiveness Summary accompanying the issuance of the initial CAAPP permit, observing that it was requiring the on-going implementation of the work practices and that, together with inspection and recordkeeping, the requirements will assure compliance with periodic monitoring. See, Response to Public Comments for CAAPP Permit Applications for Midwest Generation et al, at 33 (September 29, 2005).

⁶⁰ See, Conditions 7.2.4, 7.3.4 and 7.4.4.

⁶¹ The requirements contain adequate specificity by acknowledging the type of control measures in use and are practically enforceable by requiring the control measures record and submittal. Notably, these contentions were raised in an earlier proceeding and were rejected by the USEPA. See USEPA order responding to petitions, Midwest Generation (Fisk Generating Station).

⁶² See, 35 IAC 212.309.

⁶³ See, 40 CFR Part 60 Subpart Y.

In the CAAPP permit, the Illinois EPA's approach to Periodic Monitoring for the affected operations and processes is similar to the regulatory framework described above. However, the Illinois EPA did not require a formal approval process for the selected control measure, or for subsequent changes to the list of control measures. In the absence of underlying regulatory requirements existing in federal or state law, mandating these additional requirements in a Title V permit is potentially outside the scope of Agency authority⁶⁴ and, further is arguably unnecessary given the limited purpose meant to be served by the control measures (i.e., Periodic Monitoring).

The comment also expresses concern regarding the absence of an opportunity for public comment on the control measures. The revised CAAPP permit, like the initial permit, requires the source to submit a list of control measures that will be operated and maintained within 60 days of permit issuance. Owing to the lack of permit effectiveness for the initial CAAPP permit, the source has yet to generate this record and the comment is therefore premature. Once the record is submitted to the Illinois EPA, it will be available for public viewing and inspection upon receipt of a request filed under Illinois' Freedom of Information Act.^{65 66}

USEPA Comment 2. -
Frequency of VE Observations

The frequency of the required observations of visible emissions (VE) from coal handling equipment, coal processing equipment, and fly ash equipment is inadequate to assure continuous compliance with applicable opacity and PM limits. The draft revised CAAPP permit would contain inspection requirements for the coal handling, coal processing, and fly ash equipment.⁶⁷ These include monthly inspections of the coal handling and coal processing equipment, and weekly (and monthly) inspections of the fly ash equipment. In addition, the draft

⁶⁴ An attempt to impose such requirements would likely raise legal questions including whether Title V permit authorities may create new substantive requirements and whether mandating the use of certain emission requirements constitutes improper rulemaking. To replicate, through a Title V permit, principal elements of a regulatory program that could not otherwise be imposed on a source as an applicable requirement would likely exceed the scope of gap-filling and/or other implied authorities available to Title V permitting agencies. It can be noted that the Illinois EPA will be reviewing relevant material generated pursuant to the permit (e.g., record of control measures) to assure, for purposes of any future permit action, that the use of control measures being implemented by the source is consistent with applicable permit requirements.

⁶⁵ Further, it is presently anticipated that the generated record will be incorporated by reference in the CAAPP permit by way of a future permit proceeding (e.g., permit reopening or significant modification) and would therefore be a part of any permit record regarding the same.

⁶⁶ It should also be noted that the substance of the comment is beyond the scope of changes being addressed in this permitting action. The subject requirements relating to control measures underwent public comment and USEPA review at initial permit issuance and were clearly ascertainable at that time. More fundamentally, the permit modification procedures undertaken for resolving the CAAPP utility appeals appropriately do not encompass a comprehensive review of the permit. Rather, review is limited to the issues directly arising from the significant modifications to a permit. This approach is supported by the preamble discussion accompanying the Part 70 rules and was adopted by the USEPA Administrator in a subsequent petition response. For reasons that relate to the policy of administrative finality, the approach is equally essential in the current proceeding to achieve a complete resolution of the CAAPP appeal.

⁶⁷ See Conditions 7.2.6, 7.3.6 and 7.4.6.

revised permit would require that the Permittee perform VE observations using USEPA Reference Method 22 once per calendar year.

Given that the majority of the affected equipment operates regularly throughout the year, it is not clear how the draft CAAPP permit inspection requirements and frequency of the required VE observations are adequate to yield reliable and accurate emissions data, as required by 40 CFR 70.6(a)(3)(i)(B), with respect to the applicable opacity and process weight rate PM limits

In the reopening proceeding, once Illinois EPA has the information regarding the control measures for different emission points, Conditions 7.2.8(b), 7.3.8(b) and 7.4.8(b) should be revised to include additional monitoring and/or testing to yield the reliable data that assures compliance on a continuous basis.

Finally, Illinois EPA should provide in the Statement of Basis for this permitting action an explanation of how the control measures and monitoring requirements for each transfer point, coal pile, conveyor belt, and other points of fugitive emissions will assure compliance with all applicable opacity and PM limits. This should include a discussion of the relationship between monitoring frequency and applicable emission limits.

Response:

This comment focuses narrowly on only one aspect of Periodic Monitoring for the subject equipment (i.e., monthly inspection requirement), while overlooking other aspects of the overall monitoring approach.⁶⁸ The concept of Periodic Monitoring eschews a one-size-fits-all framework and is therefore regarded as something of a case-by-case evaluation. In a similar vein, one component of Periodic Monitoring should not trump other components, or be singled out without giving due regard to its relationship to the other components of the monitoring.

A key component of the Periodic Monitoring is an on-going requirement that the Powerton Station operate and maintain designated control measures for the equipment on an as-needed basis or, similarly stated, as necessary to assure compliance. This obligation, which is required whenever equipment is operating and material is being handled,⁶⁹ is now codified in the permit, although various uses of control measures have

⁶⁸ As observed with the previous comment, the Illinois EPA notes that the subject comment is beyond the scope of changes being addressed in this permitting action. The CAAPP procedures governing here restrict this proceeding to only those issues directly arising from the planned significant modifications to the 2005 permit.

⁶⁹ The fact that the equipment operates on a regular basis does not constitute a sufficient basis to require more frequent inspections, as suggested by the comment, when control measures must be used whenever equipment operates. Moreover, it is inaccurate to suggest that all equipment operates "continuously, 365 days a year." In fact, most of the equipment operates intermittently. For example, the unloading of silos can be limited by other factors not in the control of the Permittee. The duration of daily equipment operation is lower when only one of the boilers is operating and the other boiler is out for maintenance.

long been practiced by the Powerton Station and the other utility sources.⁷⁰

The use of control measures is accompanied by periodic verifications that must be formally undertaken by the source. Detailed records must be maintained for each instance in which an affected operation/process operates without the presence of the designated control measures.⁷¹ Deviations from the requirement to operate and maintain control measures must also be reported.⁷² The inspection and record-keeping requirements are the remaining components of Periodic Monitoring. The formal inspections, by design, will provide specific confirmation that the designated control measures are being properly operated and maintained. Records must be kept for each required inspection to document the operation and condition of the applicable control measures, as well as the performance of the inspection.⁷³

It should be noted that the use of control measures is required independent of the informal verifications (or observations) of the subject equipment that are contemplated by the permit. Lapses in the use of such measures must be corrected by the Powerton Station independent of the formal inspections that are required. Because the collective requirements relating to control measures should be adequate to verify implementation of the control measures, the imposition of a daily, formal observation is not necessary to provide Periodic Monitoring that satisfies Title V's requirements. For these reasons, the comment does not justify changes to the frequencies of the formal inspections specified by the permit.⁷⁴

Moreover, more frequent observations for visible emissions would not provide useful information. Neither the applicable standards nor the permit prohibit visible emissions from the subject equipment. For purposes of Periodic Monitoring, the absence of visible emissions is a criterion that will act to simplify the periodic inspections for certain equipment, such as the coal silos, which are located in a

⁷⁰ Certain work practices are and will continue to be implemented for the subject equipment, independent of the CAAPP permit, for reasons related to worker safety, equipment reliability and longevity, and operational costs. The introduction of the requirement for control measures to the CAAPP permit is significant in that it codifies past and continuing practices to control dust and establishes a supporting means of oversight and recordkeeping.

⁷¹ Such records include a description of the event, probable cause of the occurrence, any preventative measures taken, and an explanation of whether the relevant opacity standards were exceeded. See generally, Conditions 7.2.9(e), 7.3.9(d) and 7.4.9(d).

⁷² Occasions during which the subject equipment is not in compliance for more than a specified time require notification within 30 days. Otherwise, the deviation must be reported in a quarterly report. See generally, Conditions 7.2.10(a) (ii) and (iii) (A), 7.3.10(a) (ii) and (iii) (A), and 7.4.10(a) (ii) and (iii) (A).

⁷³ The inspections must document the date and time of the inspection, as well as the particular equipment being observed; the "observed condition" of the control measures, including both the "presence of any visible emissions or atypical accumulations of coal fines;" a description of the "maintenance or repair" of equipment relating to the control measures, as well as a review of pending recommendations from prior inspections; and a description of any corrective action, including whether such action occurred within two hours of discovery and returned the operation to normal (i.e., no visible emissions). See generally, Conditions 7.2.9(d), 7.3.9(c) and 7.4.9(d).

⁷⁴ Formal inspections of the coal handling equipment, coal processing equipment, and certain fly ash equipment are required monthly pursuant to Conditions 7.2.8(a), 7.3.8(a), and 7.4.8(a) (i), respectively. Inspections of fly ash load-out operations are required weekly pursuant to Condition 7.4.8(a) (ii).

closed building.⁷⁵ For such equipment, the absence of visible emissions will likely readily confirm proper implementation of control measures. If visible emissions are not present from such equipment, either during an initial observation for visible emissions or following timely repair, it would also be unproductive to require observations for the opacity of emissions by USEPA Method 9, as are necessary for equipment from which visible emissions are normally present.

In summary, the approach to Periodic Monitoring developed for the subject equipment in 2005, centering on work practice requirements for the use of control measures, was both sound and practical.⁷⁶ However, consistent with an earlier commitment to Region V, the Illinois EPA will re-evaluate this approach contemporaneous with the Re-opening proceeding.

USEPA Comment 3 -

The draft CAAPP permit language should provide for the 30 percent parametric monitoring opacity value for the coal-fired boilers to be revised downward should testing indicate a more stringent limit is necessary to demonstrate compliance with applicable PM limits.

Condition 7.1.9(c) (ii) (A) establishes an opacity limit to comply with the PM limit. The draft CAAPP permit requires testing of the coal-fired boilers within 120 days of issuance of the current permit to determine the correlation between PM emissions and opacity. This testing is expected to yield data that will reflect the relationship between opacity and PM emissions from the boilers at this facility. We request that, in the event that testing indicates a relationship of opacity to PM that indicates the need for a number that is more stringent than the established limit of 30 percent, Illinois EPA revise the Condition during the re-opening to reflect the more stringent/accurate limit.

Response:

Condition 7.1.9(c) (ii) (A) must remain in the CAAPP permit as drafted. This is because this condition requires recordkeeping for deviations from the SIP requirement for opacity in Condition 7.1.4(a), which is 35 IAC 212.123, 30 percent opacity. Changing the 30 percent value in this condition would establish a new emission standard, which is not provided for by Title V of the Clean Air Act or the CAAPP.

⁷⁵ It is also expected that visible emissions will normally not be present for a number of other pieces of equipment. The transfer point from the railcar unloading pit to the coal transfer conveyor is located underground. Fly ash is transferred from the boilers with pneumatic conveying systems that operate under negative pressure.

⁷⁶ The original 2005 permit established a comprehensive regimen for periodic monitoring. In its consideration of periodic monitoring for the subject equipment, the Illinois EPA recognized that varying combinations of components could serve to establish sufficient periodic monitoring, depending upon the nature of the subject equipment and the applicable emissions control requirements. In the case of the coal handling, coal processing, and fly ash equipment, this consideration necessarily accounted for the type, function, placement and locations of these units and the straight-forward nature of the emission standards that apply to these units. See, Response to Public Comments for CAAPP Permit Applications for Midwest Generation et al, at 33 (September 29, 2005) ("these requirements need not be identical for each unit" and "various combinations of the requirements will suffice depending on the nature of a unit and the emission control requirements to which it is subject.").

The value of opacity that may "change" in the future is the value in Condition 7.1.9(c) (ii) (B). However, upon completion of the requirements in Condition 7.1.13-1(b), for emission testing to determine an indicator range for opacity in the CAM plan for PM, Condition 7.1.9(c) (ii) (B) will become obsolete.⁷⁷ The reason that Condition 7.1.9(c) (ii) (B) will become obsolete is because the CAM Plan will then provide monitoring to demonstrate compliance with the applicable state standard for PM, 0.10 lb/mmBtu pursuant to 35 IAC 212.202, as addressed in Condition 7.1.4(b). The CAM Plan must include an indicator value for opacity that is consistent with the results of the PM testing that will be performed specifically for this purpose. As such, this value in the CAM plan may be lower than 30 percent. This value of opacity will be added in the conditions dealing with CAM in the revised permit that is issued pursuant to the Re-Opening Proceeding or other modification to the CAAPP permit.

⁷⁷ Condition 7.1.13-2 states the following: "Pursuant to 40 CFR 64.5(d), upon start of the monitoring in accordance with Condition 7.1.13-2(a), recordkeeping pursuant to Condition 7.1.9(c) (ii) (B) shall be discontinued."

F, ORAL COMMENTS DURING THE PUBLIC HEARING WITH RESPONSES BY THE ILLINOIS EPA

The following comments regarding the draft revised CAAPP Permit and Statement of Basis for the Powerton Station were provided orally at the public hearing on April 27, 2015:

ORAL COMMENT 1

The Statement of Basis, page 14, provided the following explanation for the planned removal of recordkeeping requirements for emissions of mercury, hydrochloric acid (HCl) and hydrofluoric acid (HF) from Condition 5.6.1:

Because the source is now required to maintain records for emissions of HCl, the removal of HF from Condition 5.6.1 is of minor significance because HCl serves as a surrogate for HF.

In terms of chemical properties, HCl and HF have very different dissociation contents. HCl is a much stronger acid under most conditions. The toxicity issues related to HCl and HF are very different and their absorption properties, particulates and surfaces are also quite different. Can the Illinois EPA explain why the HF is going to be not monitored because HCl is a surrogate? I do not think that HCl can be a surrogate for HF.

Response:

In the context of emissions from coal-fired boilers, emissions of HCl can serve as a surrogate for HF emissions. The cited language in the Statement of Basis was obtained from the preamble to USEPA's rulemaking for the Mercury and Toxic Air Standards for Coal and Oil-Fired Electric Utility Generating Units, 40 CFR 63 Subpart UUUUU, which was published in the Federal Register on February 16, 2012 [77 FR 9367]. This preamble indicates that USEPA determined that HCl emissions can serve as a surrogate to emissions of hazardous acid gases, including HF.

ORAL COMMENT 2

It was very difficult to find the documents for this proceeding that the Illinois EPA made available over the internet. The electronic link provided in the public notice does not link directly to the documents that were provided for public review and comment. Without a keyword to search for, the link does not take the public directly to any useful information. It would be better to provide a direct link to the actual documents rather than requiring people to search for the relevant documents. This is especially true because some people may have thought that the Powerton Station would now be listed under NRG rather than under Midwest Generation, which continues to be the owner or operator of the Powerton Station.

Response:

The Illinois EPA regrets these difficulties in accessing documents

over the internet.⁷⁸ Unfortunately, when a public notice is prepared, the direct internet links to documents are not yet available. In particular, the "Illinois Permit Database" is actually maintained by USEPA Region V and not managed by the Illinois EPA. Accordingly, as reflected in this comment, members of the public may need to search the permit database for a while until they find the relevant documents. Alternatively, individuals may call a contact number provided in the public notice for assistance or to receive a printed copy of documents by mail.

ORAL COMMENT 3

The revised CAAPP permit should require additional control measure be put on the coal-fired Powerton Station to keep the air clean.

Response:

The purpose of CAAPP permits is to facilitate and enhance compliance with existing emission standards and control requirements. They are not a means to impose new emission standards and control requirements, as requested by this comment. For existing sources, like the Powerton Station, new emission standards and control requirements must be adopted through legislation or rulemaking. These forums provide for appropriate consideration of the feasibility and benefits of possible new requirements and the costs and other impacts that would accompany those new requirements.

ORAL COMMENT 4

The permit depends on testing and monitoring by the source. Why? Why aren't there watchdog groups or other independent people doing testing and monitoring? I think anything else is absurd.

Response:

In general, most air pollution control laws and rules require or depend upon testing and monitoring by the regulated source rather than third parties. Consequently, operating permits such as the revised CAAPP permit typically impose extensive monitoring, reporting, recordkeeping and testing requirements on the source to assure that the underlying applicable requirements are being met. In its capacity as an air pollution control authority, the Illinois EPA, and to a similar extent, USEPA, Region V, are vested with the power to conduct independent testing and monitoring of air emissions from sources but such power is exercised sparingly due to resources and costs.

⁷⁸ Copies to the draft revised CAAPP permit for the Powerton Station and accompanying Statement of Basis were available over the internet by the following methods:

Accessing the Illinois EPA website (www.epa.illinois.gov), clicking "For Citizen" on the home page, then "Public Notices," and then click on link titled "Midwest Generation, LLC - Powerton Station - Significant Modification"

Accessing the USEPA website at the link provided in public notice (www.epa.gov/reg5oair/permits/ilonline.html), clicking on "Title V" under "All Permit Records," scroll to locate and click on "Midwest Generation - Powerton Station." Links to portable document format (.pdf) are provided on the page for the draft revised CAAPP permit and Statement of Basis.

ORAL COMMENT 5

The Statement of Basis (page 12) identifies five construction permits issued prior to October 2005 that were reviewed in development of the initial CAAPP permit and incorporated into the initial permit, as appropriate. How many construction permits has the Illinois EPA issued to the Powerton Station since 2005? Why is the Illinois EPA in 2015 only reviewing permits issued before October 2005? Also, are all initial construction permits being taken into consideration?

Response:

The purpose of this permitting action has been to get a CAAPP permit in place for the Powerton Station by settling the appeal of the initial permit. This is why only construction permits issued prior to September 2005 are addressed in this permit action. For this purpose, all such construction permits that are still applicable and relevant have been considered. In the reopening proceeding for this CAAPP permit, new applicable rules and requirements of air pollution control construction permits issued since September 2005 (currently seven permits) will be included in the CAAPP permit.

ORAL COMMENT 6

Nursing homes are doing a great job in taking care of our most elderly people. But those people are sick sometimes, and no matter how much they get help and care from their care providers in that skilled nursing home, if the air is polluted they are not making a lot of progress. Our elders need the help of the Illinois EPA to get the air clean. I ask Illinois EPA to become elder care providers and clean Illinois's air.

In addition to SO₂, the Powerton Station also emits large amounts of CO₂, NO_x and other pollutants that contribute to levels of pollutants in the air that significantly impact public health and associated costs for healthcare. The costs of healthcare for the public, both as individuals and as taxpayers, would be less if the air were cleaner.

Response:

The Illinois EPA agrees with the spirit of these comments. As the designated air pollution control authority for Illinois, the Illinois EPA is committed to achieving the goals of the Clean Air Act. Air quality in Illinois has improved dramatically since the Clean Air Act was originally adopted and, year by year, continues to improve. Regrettably, for those areas of the State that are designated nonattainment for various pollutants, as well as in certain areas adversely affected by particular sources, important work remains to be done in Illinois to improve air quality.

ORAL COMMENT 7

I feel there are a lot of holes in this draft permit. I tried to go through the Statement of Basis. The Statement of Basis is long, 81 pages, and very complicated. I had hoped that because of this CAAPP permit process was to compile things together, that the Illinois EPA could keep the public in mind and make it more digestible. This seems like it is not even quite up to the parts of the CAAPP permitting, as my understanding is that it is to compile everything in one place for the public to be able to look at and understand the risks to their community.

Response:

The subject matter of the CAAPP permit for the Powerton Station, including the emissions monitoring, testing and compliance procedures, are inherently complicated. This is largely due to the detailed nature and broad scope of the applicable emission standards that apply to the various emission units at this source. The Illinois EPA continues to make efforts to "simplify" permits, both in structure and language, so that they may be more readily understood by the public and would welcome suggestions on how to better accomplish this while still fulfilling the legal requirements for a CAAPP permit. In this regard, it must be recognized that the purpose of the CAAPP program is to compile existing Clean Air Act-related requirements that apply to a subject source into a single document, accompanied by appropriate requirements for Periodic Monitoring. The processing of an application for CAAPP permit does not entail an evaluation or assessments of emission impacts of the subject source. Rather, the purpose of CAAPP permits is to facilitate compliance with applicable Clean Air Act requirements and thereby minimize any impacts on the public and the environment.

ORAL COMMENT 8

Section 2.2 in the Statement of Basis says that there are no concerns for air quality and that the Powerton Station is not in any nonattainment areas. However, parts of Tazewell County, including the city of Pekin, are designated a nonattainment area for sulfur dioxide (SO₂), pursuant to a USEPA rulemaking published in the Federal Register on January 30, 2015. Emissions of SO₂ and other pollutants from the Powerton Station are transported in the atmosphere affecting air quality in areas that are hundreds of miles away.

Response:

The Illinois EPA agrees that the Statement of Basis should have acknowledged that the Powerton Station is adjacent to an area that is designated nonattainment for the hourly ambient air quality standard for SO₂. To bring this area into attainment, the Illinois EPA submitted a regulatory proposal with new emission standards for SO₂ to the Illinois Pollution Control Board on April 27, 2015 (R 2015-021). This proposal includes limits for various sources, including the Powerton Station, to assure attainment is reached.

The effects of coal-fired power plants, including the Powerton Station, on air quality on a statewide or regional basis are addressed

by USEPA through regulatory programs that address transport of emissions. The first of these programs was the federal Acid Rain Program. The newest program is the Cross-State Air Pollution Rule (CSAPR). These programs have resulted in substantial reductions in the emissions of coal-fired power plants on a national basis with accompanying improvements in air quality and lower effects on public health.

ORAL COMMENT 9

Which Illinois EPA field office is responsible for the Powerton Station? When was the last Illinois EPA inspection conducted for the Powerton Station?

Response:

The Illinois EPA's Air Regional Office for the area that includes the Powerton Station is at 412 SW Washington St., Suite D, Peoria, 61602, and telephone 309-671-3022. The last inspection at the Powerton Station was conducted on June 18, 2015. There were no violations or significant compliance related issues identified during the on-site inspection. The report for this inspection has not been finalized at this time. The report for the previous inspection on September 12, 2013 did not identify any violations or compliance related issues.

ORAL COMMENT 10

How can the public make a complaint regarding air pollution?

Response:

The public can make complaints about air pollution from sources in the Peoria area, including excessive opacity or fugitive dust, directly to the Illinois EPA's Peoria Air Regional Office, either by telephone or in writing. Complaints can also be submitted to the Illinois EPA by e-mail: <http://www.epa.illinois.gov/pollution-complaint/index>

ORAL COMMENT 11

Is the Powerton Station currently in compliance with its existing air permits? Will the Illinois EPA be reviewing current reports for the Powerton Station before it finalizes this permit? Will Illinois EPA be assessing potential emission violations in the meantime or does it go back a certain period of time to look for violations?

Response:

The Illinois EPA routinely reviews inspection results and other compliance related during the processing of applications for CAAPP permit. It is expected that such a review will also be a consideration for emission units addressed by the reopening process. However, it should be noted that courts have limited the authority of the Illinois EPA to address past noncompliance by a permit applicant through the permitting process, finding that permitting cannot substitute for enforcement.

ORAL COMMENT 12

Is Midwest Generation submitting annual compliance certifications for the Powerton Station?

Response:

Midwest Generation has not yet submitted any annual compliance certifications. This is because the initial CAAPP permit issued in 2005 for the Powerton Station was stayed in its entirety. Annual compliance certifications are now required since a CAAPP permit is in effect for the Powerton Station.⁷⁹

ORAL COMMENT 13

Are visible emissions or opacity something that the public can report or make a complaint about or is it only plant people that use their subjective assessment if there is an opacity issue?

Response:

The occurrence of visible emissions from a source is a matter that the public can report to the Illinois EPA and make complaints about. Members of the public are encouraged to report the presence of visible emissions that they believe harm their health or property or are unreasonably interfering with their life or their enjoyment of their property. The public may also report the occurrence of unusually high levels of visible emissions that they believe represent improper control of emissions by a source and possible noncompliance.

When reporting the presence of visible emissions, the public should include detailed information on what they saw, including the date, time and weather conditions. However, it is not necessary for the public to make a formal, quantitative assessment of the levels of opacity of the emissions. For an individual to make such assessments, the individual must have undergone appropriate training and be certified to make opacity observations by USEPA Method 9. This process assures that an individual has the ability and training to make determinations of opacity that would be similar to those that would be made if a continuous opacity monitor could be used. In this regard, the assessment of the opacity of emissions by a qualified human observer is an objective assessment. If several qualified observers simultaneously "read" the opacity of the emissions of an emission unit, the results of their observations should be similar.⁸⁰ Members of the public can become qualified opacity observers provided that they can successfully complete the certification test at an

⁷⁹ Midwest Generation did include the requisite compliance certifications in its CAAPP applications for the Powerton Station.

⁸⁰ The regulatory need to have an objective method to determine the level of opacity is a key reason why opacity is typically determined as a 6-minute average. Method 9 provides that an observer must make 24 individual readings of opacity, at 15 second intervals, from which the average value of opacity is then calculated. This reduces the importance of any single opacity reading, be it either high or low, resulting in similar, consistent measurements of opacity by different qualified observers.

appropriate training session.⁸¹ This process would have to be repeated every six months to maintain status as a qualified observer of opacity since certifications are only valid for six month.

ORAL COMMENT 14

It has taken too long to get a CAAPP permit in place for the Powerton Station. The initial CAAPP permit for this source is now ten years old. This permit would have expired in 2010 if it had not been stayed.

Response:—

The Illinois EPA agrees with the sentiment in this comment. At the same time, as observed in and reflected by many of the other comments on the draft revised permit, the air pollution control regulations that apply to coal-fired power plants pose issues for CAAPP permits for which there can reasonably be disagreements about the appropriate approach. As such, work to resolve the appeals of the initial CAAPP permits has proceeded slower than the Illinois EPA also would have liked. However, it has been hampered by resource constraints both at the Illinois EPA and for the sources, turnover of personnel and by changes in the ownership of certain sources.⁸²

ORAL COMMENT 15

Did Midwest Generation actually apply for revisions to its initial CAAPP permit?

Response:

Midwest Generation submitted a letter application to the Illinois EPA on March 9, 2015, authorizing the Illinois EPA to act anew on the appealed CAAPP permit and requesting that this application incorporate the earlier application materials.⁸³ This letter application reflects the established approach to resolving CAAPP appeals before the Board through negotiations and revisions to the appealed permits. It cleared the way for the Illinois EPA to process a revised CAAPP permit for the Powerton Station.

ORAL COMMENT 16

⁸¹ The Illinois EPA offers a free training session on observation of opacity, also known as "smoke school," in Springfield in the spring and fall of each year. This session is attended by Illinois EPA personnel and staff from many sources in downstate Illinois, including the Power Station. Even if one does not have the visual ability to become a certified opacity observer, these training sessions provide useful insight on the regulation of the opacity of emissions. Additional information on these sessions can be found on the Illinois EPA website (www.epa.illinois.gov) by searching "smoke school."

⁸² With the issuance of the revised CAAPP permit for the Powerton Station, CAAPP permits are now in place for four of Illinois' coal-fired power plants, i.e., the Coffeen Generating Station, the City of Springfield's Dallman Power Plant, the Kincaid Generating Station and the Powerton Station.

⁸³ Midwest Generation submitted its application for the initial permit on September 7, 1995. An update to the application was submitted on August 22, 2003.

For the Powerton Station, is the Illinois EPA truly only fixing conditions of the initial CAAPP permit that were contested in the appeal before the Pollution Control Board?

Response:

As explained in the Statement of Basis, the purpose of the revised CAAPP permit was to resolve the appealed conditions of the initial CAAPP permit and put in place an effective CAAPP permit for the Powerton Station. To resolve the appeal, the revised CAAPP permit includes a number of significant modifications, as well as a variety of minor modifications and administrative amendments to the initial permit. As required by the CAAPP program when a significant modification is being made to a CAAPP permit for particular emission units, the revised CAAPP permit also addresses the requirements of the CAM rule for emission units at the Powerton Station that are the subject of the significant modification. New requirements since 2005, including new regulatory requirements and requirements of construction permits issued since 2005, are not addressed in the revised CAAPP permit. These requirements will be included in the CAAPP permit that results from the reopening proceeding that has now being begun.

ORAL COMMENT 17

If the Illinois EPA were truly interested in having a useful CAAPP permit in place for the Powerton Station, the Illinois EPA would reopen the revised permit the day after it is issued, not 32 days later.

Response:

The revised CAAPP permit for the Powerton Station cannot be reopened the day after it is issued. As implicit in this comment, for a CAAPP permit for the Powerton Station to be reopened, there must first be an effective CAAPP permit to reopen. Then, Section 39.5(15) of the Act provides that the Illinois EPA must provide a source with notice of intent to reopen a CAAPP permit at least 30-days in advance of the date that the permit is actually reopened. Accordingly, the Illinois EPA has begun the reopening process for the Powerton Station by sending the necessary notice to Midwest Generation. However, the Illinois EPA cannot officially reopen the CAAPP permit until the notice period is completed. Then, since this period will not begin until Midwest Generation receives this notice, it could be as much as 32 days before the CAAPP permit for the Powerton Station is officially reopened.

ORAL COMMENT 18

This permitting process has not at all been focused on the public. The Illinois EPA is letting elected officials down because they believe that Illinois EPA is looking out for the public. When I talked to two members of the Peoria County Board about going to a public hearing about a permit that has been stayed since 2005, they thought I had it wrong.

Response:

The Illinois EPA is "looking out for the public." The CAAPP permit is only one component of the broader suite of air pollution control requirements that applies to the Powerton Station, which the Illinois EPA administers. The stay of the initial CAAPP permit for the Powerton Station did not stay the effectiveness of applicable emission control requirements that apply to the Powerton Station. It also has not blocked the adoption of regulations imposing certain new emission standards and requirements with which Midwest Generation must comply. While it is unfortunate that the initial CAAPP permit for the Powerton Station was stayed for over ten years, an effective CAAPP permit is now in place for this source.

ORAL COMMENT 19

Who selected the location and the date for the public hearing? The time of the hearing conflicted with the meeting of the Pekin City Council, at which I am usually at, trying to help them understand the issues with pollution. I am also a little upset because this hearing was not made public over in Tazewell County where I live. I did not see an announcement in the paper, unless it was very small. I wish that this hearing would have been better publicized.

Response:

The Peoria Park District's Gateway Building was selected as the location for the hearing because it had been previously used by the Illinois EPA for other public hearings in the Peoria Area. The Gateway Building is centrally located for people living in the Peoria area, it can accommodate a large number of individuals and it was available in on an appropriate day for the hearing. Given the administrative challenge of scheduling public hearings, it is not practical for the Illinois EPA to avoid conflicts with other meetings. In addition to publishing the notice for the hearing three times in the Peoria Journal Star, notice of this hearing was provided directly to local elected officials and to interested parties on a mailing list maintained by the Illinois EPA.

ORAL COMMENT 20

I am concerned about the impacts of emissions from the Powerton Station on the health of the public. I operate a campground on the Illinois River south of the Powerton Station. Families come there and the children play on the beach and go fishing with their parents and grandparents. I also took my children and their friends out snow skiing, snow tobogganing, teaching them how to water ski, tubing, fishing, and looking for animal tracks along the river.

Response -

The health impacts of coal-fired electric power plants have been the subject of considerable scientific scrutiny. These plants do emit pollutants that in sufficiently high concentrations can have health effects, particularly for people suffering from asthma, chronic respiratory diseases or heart disease. Some studies have found that

emissions from existing coal-fired power plants do contribute to these effects at levels that can be predicted mathematically. However, those studies do not demonstrate that power plants like the Powerton Station pose a significant risk to public health individually. Indeed, having an adequate, reliable and affordable supply of electricity is also essential to modern society, and to the health and well-being of the public. Rather, the purpose of those studies is to influence public policy toward reducing the emissions and any associated health impacts from existing power plants, many of which are over 50 years old. As such, one goal of those studies is to have those existing power plants upgraded with more modern emission control technology

ORAL COMMENT 21

I am told that as an infant I suffered from acute asthma. Now, over 50 years later, the situation has not improved. My daughter has chronic asthma. Many of her friends have inhalers. Children didn't have inhalers when I was growing up. It seems like it is the norm now. Children have asthma specialists; they have inhalers. I have an asthma inhaler and I am not sure why.

Response:

Asthma is a respiratory disease affecting a small but significant percentage of the population. While poor air quality may have a role in triggering asthmatic attacks, it is questionable whether it is the cause of asthma.⁸⁴ Poor air quality is also only one of many triggers for asthma. As reflected by this comment, individual who have asthma need to be under a doctor's care. Doctors often prescribe "fast-acting" inhalers so individuals may quickly relieve certain acute asthma symptoms subject to further medical treatment as directed. Other medications delivered by inhalers may also be prescribed to reduce the chronic symptoms of asthma. Inhalers are likely more common now than 50 years ago because of better diagnosis and treatment of asthma, accompanied by better medications to treat asthma.

ORAL COMMENT 22

Is this a "bad summer" for ambient air quality? I would like to have access to information on local air quality on a daily basis.

Response:

Overall, air quality this summer has been good. Daily Information about air quality in different areas of Illinois, including the Peoria area, is currently available on the internet, e.g., <http://www.epa.state.il.us/air/aqi/index.html>.

ORAL COMMENT 23

I am a little leery about waterskiing in the Illinois River near Pekin because of the mercury emissions of the coal-fired plants in the Pekin area.

⁸⁴ In the United States, ambient air quality has improved greatly over the last 50 years.

Response:

The emissions of mercury from coal-fired power plants do not pose a direct risk to the health of the public. Rather the risk to public health comes from ingestion, that is, eating foods that contain significant levels of mercury. Moreover, mercury can be transported very long distances in the atmosphere before it returns to the surface of the earth and enters an aquatic ecosystem. Accordingly, lowering the levels of mercury in certain foods, notably long-lived, large predatory fish, requires reductions in mercury emissions on a regional, national and international level. For this reason, states routinely issue advisories to reduce health risks from consumption of different species of fish caught from various water bodies within their jurisdiction.⁸⁵

ORAL COMMENT 24

I was very disappointed with the Statement of Basis prepared for the draft revised CAAPP permit for the Powerton Station. In a Statement of Basis, the Illinois EPA is supposed to supply the rationale for its decisions when exercising judgment in certain conditions. However, the Statement of Basis only provides the rationale for the planned revisions to the permit that resulted from the negotiated settlement of the appeal. I did not find any rationale for any of the other decisions. I also did not see any concern for the public.

Response:

As observed by this comment, the Statement of Basis for this revised CAAPP permit focused on the planned changes to the initial CAAPP permit to resolve the appeal and get a CAAPP permit in place for the Powerton Station. It also focused on the new provisions that would be added to the permit to address CAM. This was appropriate because these were the changes that were planned for the permit. It would not have been appropriate in this Statement of Basis to address provisions in the permit that would not be changed.

In fact, many provisions of the permit are unchanged. This revised permit does not alter nor could it alter the emission standards that legally apply to the Powerton Station. The revised permit also continues to include certain provisions for which Midwest Generation conceded and accepted the provisions of the initial permit. In this regard, the resolution of the appeal does reflect compromises by both Midwest Generation and the Illinois EPA. In addition, the revisions to the permit also reflect restructuring and rewording of certain provisions to correct actual or perceived flaws in the initial provisions. These changes generally involved Periodic Monitoring, that is, the means by which Midwest Generation would assure compliance with applicable emission standards and control requirements. In all these compromises and reworking of provisions, the integrity of the CAAPP

⁸⁵ Advisories on consumption of fish caught in Illinois are issued by the Illinois Department of Public Health. In addition to mercury, these advisories also address certain chemicals. These advisories are available on the internet.

<http://www.idph.state.il.us/envhealth/factsheets/fishadv.htm>

permit was maintained. In certain respects the revised permit is stronger than the original permit would have been. As such, although unstated, the possible impact of changes to the permit on the public was always considered as the Illinois EPA worked to develop a revised permit that would be consistent with the CAAPP. Most significantly, the Illinois EPA worked to assure that the revised permit required implementation of appropriate Periodic Monitoring and an appropriate CAM Plan for the Powerton Station.

ORAL COMMENT 25

A Statement of Basis that is 65 pages long and has 85 footnotes is too long for the Illinois EPA to explain to the public its decision making, which is what a statement of basis is supposed to do.

Response:

The length of and level of detail in this Statement of Basis were necessary to explain the various revisions to the CAAPP permit for the Powerton Station that were planned to resolve the appeal of the initial CAAPP permit.⁸⁶ It would not have been appropriate for the Illinois EPA to have prepared a shorter and simpler statement of basis so that it might have been more easily read by the public, as recommended by this comment. It would not have met the legal requirements for a statement of basis. It also would have been incomplete. Lastly, it might not have provided sufficient information for the public to understand what was planned and the underlying rational for the changes.

ORAL COMMENT 26

I am concerned that the emission standard for SO₂ emissions from burning fuel oil would no longer be addressed in the revised permit (Conditions 7.1.1, 7.1.5(a)(ii)(B) and 7.1.5(a)(iii)).

Response:

These revisions were made because the Powerton Station does not have the capability to burn fuel oil in its coal-fired boilers.

ORAL COMMENT 27

I am concerned about recordkeeping requirements in Condition 7.2.9(f) for startup, malfunction and breakdown that were deleted. (Pages 93 and 94 of redline version of permit).

Response:

The recordkeeping requirements in Condition 7.2.9(f) related to malfunction and breakdown of the coal handling equipment were combined with the recordkeeping requirements during other incidents in Condition 7.2.9(e). This resulted in the removal of Conditions

⁸⁶ In statements of basis, as provided by Section 39.5(8)(b) of the Act, the Illinois EPA must set forth the legal and factual basis for the draft CAAPP permit, including references to applicable statutes or regulations.

7.2.9(f) from the permit. (Discussed in the Statement of Basis, pages 78-79)

For coal handling equipment, Midwest Generation did not request "authorization" for excess emissions during startup. Accordingly, Condition 7.2.9 of the CAAPP permit does not need to require additional recordkeeping specifically addressing the potential for excess emissions during startup of this equipment. Instead, startup is addressed is addressed by the records required for the normal operation of this equipment.

ORAL COMMENT 28

I am concerned that the recordkeeping requirements in Condition 7.4.9(e) for malfunction of the fly ash handling equipment would not be retained in the revised CAAPP permit. (Page 130 of the redlined version of the draft revised permit).

Response:

Records would still be required for malfunctions involving the fly ash handling equipment. However, the recordkeeping that required by Condition 7.4.9(e) has now been combined with the recordkeeping required by Condition 7.4.9(d), which initially addressed incidents when this equipment operated without the necessary control measures. (Discussed in the Statement of Basis, pages 78-79)

ORAL COMMENT 29

What are "atypical" accumulations of coal fines? In the initial CAAPP permit, the conditions that required Midwest Generation to keep records for the observed condition of control measures during inspection of coal handling and processing operations required that the presence of accumulations of coal fines be included in these records. The draft revised permit would now only require for records of the presence of "atypical" accumulations of coal fines. Midwest Generation should keep records that address all accumulations of coal fines, not just atypical accumulations.

Response:

The recordkeeping requirements for the periodic inspections of coal handling equipment and coal processing equipment, Conditions 7.2.9(d) and 7.3.9(c), were revised to clarify the information that must be included in the records. The word "atypical" now clarifies that these records must address the presence of unusual accumulations of coal fines at the equipment that is being inspected. The presence of such accumulations would indicate that control measures have not been effectively implemented. As such, the revised permit requires records that will be more useful in addressing the implementation of control measures. Information for the presence of any accumulations of coal fines would not distinguish between the accumulations that are normally present at certain operations, e.g., coal that drops off the side of a conveyor, and the presence of larger accumulations that pose concerns for the effectiveness of control measures.

G. FOR ADDITIONAL INFORMATION

Questions about the public comment period and permit decision should be directed to:

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