**Section 105.302 General Requirements**

a) The definitions of 35 Ill. Adm. Code 101.202 and Section 39.5 of the Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise.

b) If the Agency denies a CAAPP permit, permit modification, or permit renewal, it must provide to USEPA, the permit applicant and, upon request, affected states, any person who participated in the public comment process, and any other person who could obtain judicial review under Section 41(a) of the Act [415 ILCS 5/41(a)] a copy of each notification of denial pertaining to the permit applicant.

c) The applicant, any person who participated in the public comment process under Section 39.5(8) of the Act, or any other person who could obtain judicial review under Section 41(a) of the Act may contest the decisions of the Agency enumerated in this subsection (c) by filing with the Clerk a petition for review of the Agency's action in accordance with this Section:

1) Denial of a CAAPP permit, including a permit revision or permit renewal, or a determination of incompleteness regarding a submitted CAAPP application;

2) Issuance of a CAAPP permit with one or more conditions or limitations;

3) Failure of the Agency to act on an application for a CAAPP permit, permit renewal, administrative permit amendment, or significant permit modification within the time frames specified in Section 39.5(5)(j) or Section 39.5(13) of the Act, as applicable; or

4) Failure of the Agency to take final action within 90 days after receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements) under Section 39.5(14) of the Act.

d) For purposes of this Subpart, a person who participated in the Agency public comment process is someone who, during the Agency public comment period, either commented on the draft permit, submitted written comments, or requested notice of the final action on a specific permit application.

e) The petition filed under subsection (c) must be filed within 35 days after the Agency's final permit action unless:

1) The petition is based solely on grounds arising after the 35 day period expires, in which case the petition may be filed within 35 days after the new grounds for review arise.

2) The applicant is challenging the Agency's failure to timely take final action under Section 39.5 of the Act, in which case the petition must be filed before the Agency takes the final action.

3) However, under no circumstances may a petition challenging the final permit action on a Phase II acid rain permit be filed more than 90 days subsequent to the final permit action.

f) The Agency must appear as respondent at the hearing, and must file, within 30 days after service of the petition, an answer consisting of the entire Agency record of the application, including the CAAPP permit application, the Agency public hearing record, the CAAPP permit denial or issuance letter, and correspondence with the applicant concerning the CAAPP permit application.

g) The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.

h) The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.

i) *The Agency shall notify USEPA, in writing, of any petition for hearing brought under this Part involving a provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition. USEPA may intervene as a matter of right in any such hearing. The Agency shall notify USEPA, in writing, of any determination or order in a hearing brought under this Section that interprets, voids, or otherwise relates to any portion of a Phase II acid rain permit.* [415 ILCS 5/40.2(e)]

(Source: Amended at 44 Ill. Reg. 14897, effective September 4, 2020)