**Section 104.426 Burden of Proof**

The burden of proof in an adjusted standard proceeding is on the petitioner.

a) *If the regulation of general applicability does not specify a level of justification required of a petitioner to qualify for an adjusted standard, the Board may grant individual adjusted standards whenever the Board determines, upon adequate proof by petitioner, that:*

1) *factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;*

2) *the existence of those factors justifies an adjusted standard;*

3) *the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and*

4) *the adjusted standard is consistent with any applicable federal law.* [415 ILCS 5/28.1(c)]

b) If the regulation of general applicability specifies a level of justification for an adjusted standard, the Board may adopt the proposed adjusted standard, if the petitioner proves the level of justification specified by the regulation of general applicability.

(Source: Amended at 41 Ill. Reg. 10049, effective July 5, 2017)