

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED NEW 35 ILL. ADM. CODE 204)	R19-1
PREVENTION OF SIGNIFICANT)	(Rulemaking – Air)
DETERIORATION, AMENDMENTS TO 35)	
ILL. ADM. CODE PARTS. 101, 105, 203, 211)	
AND 215)	

NOTICE

TO: Don Brown
 Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 100 West Randolph St., Suite 11-500
 Chicago, IL 60601-3218

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Pollution Control Board the **MOTION FOR EXPEDITED REVIEW** a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
 PROTECTION AGENCY

By: *Sally Carter*
 Sally Carter
 Assistant Counsel
 Division of Legal Counsel

DATED: January 16, 2020

1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, IL 62794-9276
 217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
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PROPOSED NEW 35 ILL. ADM. CODE 204,) R19-1
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DETERIORATION, AMENDMENTS TO 35)
ILL. ADM. CODE PARTS 101, 105, 203, 211,)
AND 215)

MOTION FOR EXPEDITED REVIEW

NOW COMES Proponent, the Illinois Environmental Protection Agency (Illinois EPA or Agency), by its attorney, and pursuant to 35 Ill. Adm. Code 101.512, respectfully submits this Motion for Expedited Review (Motion). In support of its Motion, the Illinois EPA states as follows:

1. On July 2, 2018, the Illinois EPA filed a proposal with the Illinois Pollution Control Board (Board) to add a new Part 204, 35 Ill. Adm. Code Part 204, Prevention of Significant Deterioration (PSD) that would be applicable to the proposed construction of a major stationary source or a major modification at an existing stationary source of air pollutants generally regulated under the Clean Air Act (CAA), except to the extent that nonattainment new source review (NaNSR) is or could be applicable for such proposed project. In this rulemaking proposal, the Illinois EPA proposed amendments to 35 Ill. Adm. Code 101, General Rules; 35 Ill. Adm. Code 105, Appeals of Final Decisions of State Agencies; 35 Ill. Adm. Code 203, Major Stationary Source Construction and Modification; 35 Ill. Adm. Code 211, Definitions and General Provisions; and 35 Ill. Adm. Code 215, Organic Material Emissions Standards and Limitations. This rulemaking proposal was submitted pursuant to the Illinois Environmental Protection Act (Act) as it requires the Board to adopt regulations establishing a PSD permit program meeting the requirements of Section 165 of the CAA, 42 U.S.C. §7475. 415 ILCS 5/9.1(c) (effective January 1, 2016, “[t]he Board shall adopt regulations establishing permit programs for PSD and NA NSR permits meeting the respective requirements of Sections 165 and

173 of the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended.”). The Board held hearings on this proposal on November 27, 2018, in Chicago, and on February 26, 2019, in Springfield.

2. During the February 26, 2019, hearing, the Illinois Environmental Regulatory Group (IERG) noted that proposed new 35 Ill. Adm. Code 105.612(b)(v) referenced 35 Ill. Adm. Code 252.208 and 252.210 that do not currently exist in Part 252. IERG questioned if it would be advisable for the Illinois EPA to “time the adoption of those particular new sections in parallel with this proceeding so that the references in new subsection 105.612(b)(v) will be accurate immediately upon promulgation?” February 26, 2019, Transcript at page 76. At hearing, the Illinois EPA indicated that it would take this comment under advisement in the related Agency proceeding pertaining to revisions to the existing Agency regulations at 35 Ill. Adm. Code Part 252. *Id.* at page 77. In the Illinois EPA’s Second Post Hearing Comments, the Agency elaborated upon a question posed by the Board during the February 26, 2019 hearing, stating that the proposed revisions to Part 252 would be proceeding to First Notice in Spring 2019. Agency’s Second Post Hearing Comments, filed April 4, 2019.

3. In an effort to coordinate the timing of these revisions to the existing Agency regulations at 35 Ill. Adm. Code Part 252 with proposed Part 204, the Illinois EPA proceeded to first notice on the proposed revisions to 35 Ill. Adm. Code Part 252. The notice of proposed amendments to 35 Ill. Adm. Code Part 252, Public Participation in the Air Pollution Control Program, was published in Volume 43, Issue 25 of the Illinois Register, dated June 21, 2019. Pursuant to 1 Ill. Adm. Code Section 100.400(b), no more than one year may elapse from the date that a proposed rule appears in the Illinois Register until the date the rule is adopted or filed with the Index Department of the Office of the Secretary of State. Given the Agency’s proposed

amendments to 35 Ill. Adm. Code Part 252 appeared in the Illinois Register on June 21, 2019, the Agency's proposed amendments to 35 Ill. Adm. Code Part 252 will lapse on June 20, 2020.

4. After nearly 44 years of service to the State of Illinois, the Illinois EPA's primary technical witness, Mr. Christopher Romaine, has informally notified management at the Illinois EPA that he plans to retire in December 2020. Mr. Romaine is currently the Manager of the Construction Unit in the Bureau of Air, Permit Section. The Construction Unit processes applications for construction permits involving stationary sources of emissions that are or would be subject to Illinois' Clean Air Act Permit Program for stationary sources of emissions. Mr. Romaine previously served as Manager of the New Source Review Unit, Manager of the Utility Unit and Manager of the Joint Utility/Construction Unit, all in the Air Permit Section. In all of these roles, Mr. Romaine has been involved with the permitting of projects that were subject to the PSD permit program. During his tenure at the Illinois EPA, Mr. Romaine has established himself as the leading expert on PSD permitting in the State of Illinois.

5. Mr. Romaine notified the Illinois EPA well in advance of his impending retirement to ensure that the Illinois EPA could make best use of his knowledge and experience prior to his departure. This rulemaking, that would establish a state PSD permit program in Illinois, has and would necessarily benefit from Mr. Romaine's vast knowledge and experience in PSD permitting.

6. To ensure that the Act's requirement for the Board to adopt regulations establishing a state PSD permit program meeting the requirements of Section 165 of the CAA and are furthermore, met in a timely manner the Illinois EPA is requesting that the Board expedite this rulemaking. To date, the Illinois EPA has submitted all necessary and appropriate Post Hearing Comments and Motions to Amend Rulemaking Proposal. In Illinois EPA's November 7, 2019, Motion to Amend Rulemaking Proposal, the Illinois EPA proposed to correct

an oversight recently discovered by the Agency in its proposed definition of “Major Modification” in Section 204.490. In Illinois EPA’s January 13, 2020, Second Motion to Amend Rulemaking Proposal, the Illinois EPA requested that Board amend proposed Sections 205.510, 204.800, 204.810 and 204.860 to address applicable portions of United States Environmental Protection Agency’s (USEPA) proposed Error Corrections to New Source Review Regulations rule (Error Correction Rule), 84 FR 70092 (December 20, 2019), that the Illinois EPA did not include in its July 2, 2018 proposal to the Board.

7. The Illinois EPA is very concerned that the time available for the Agency to rely upon Mr. Romaine’s PSD permitting expertise in this proposal for regulations establishing a PSD permit program meeting the requirements of Section 165 of the CAA is very short.

8. For the reasons stated above, and due to Mr. Romaine’s impending retirement in December 2020, so as to avoid the Illinois EPA being without its primary technical witness in this proceeding, the regulations need to be adopted in an expedited manner.

9. Therefore, the Illinois EPA requests that the Board proceed to First Notice under the Illinois Administrative Procedure Act, 5 ILCS 100/1-1 *et seq.*, as expeditiously as possible.

10. The Illinois EPA believes that the Board possesses the information necessary for the Board to proceed to First Notice in this rulemaking having had two hearings and extensive briefing on this proposal. In the event that more information is needed, the Illinois EPA will fully cooperate to expeditiously provide the same to the Board and its hearing officer.

11. As required by 35 Ill. Adm. Code Section 101.512, this Motion is accompanied by an Affirmation attesting that the facts cited herein are true.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Board grant its Motion and expedite review in this matter.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Sally A. Carter*
Sally Carter
Assistant Counsel
Division of Legal Counsel

DATED: January 16, 2020

1021 North Grand Avenue East
P. O. Box 19276
Springfield, IL 62794-9276
217/782-5544

**THIS FILING IS SUBMITTED
ON RECYCLED PAPER**

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AND 215)	

AFFIRMATION

I, Sally Carter, under oath, hereby state and affirm that I am an Assistant Counsel for the Illinois EPA and the facts cited in the foregoing Motion for Expedited Review are true and correct to the best of my information and belief.

Sally A. Carter

 Sally Carter
 Assistant Counsel
 Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME

This *14th* day of January 2020

Dawn A. Hollis

 Notary Public



STATE OF ILLINOIS)
)
COUNTY OF SANGAMON)
)
)
)

SS

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

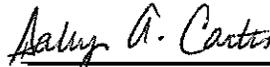
I have electronically served the attached **MOTION FOR EXPEDITED REVIEW** upon the persons on the attached Service List.

My e-mail address is sally.carter@illinois.gov.

The number of pages in the e-mail transmission is 9.

The e-mail transmission took place before 5:00 p.m. on January 16, 2020.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



Sally Carter
Assistant Counsel
Division of Legal Counsel

Dated: January 16, 2020

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