

From: [Pauley, Daniel](#)
To: [Brown, Don](#)
Subject: FW: PCB R 22-17, Amendments to Parts 203, 204, and 232
Date: Wednesday, November 10, 2021 4:05:34 PM

Good Afternoon Clerk Brown,

Could you please docket this as a public comment?

Thank you,
Daniel

From: Carter, Sally <Sally.Carter@Illinois.gov>
Sent: Wednesday, November 10, 2021 3:38 PM
To: Melissa S. Brown <Melissa.Brown@heplerbroom.com>; Pauley, Daniel <Daniel.Pauley@illinois.gov>
Cc: LaDonna Driver <LaDonna.Driver@heplerbroom.com>
Subject: PCB R 22-17, Amendments to Parts 203, 204, and 232

Mr. Hearing Officer,

Given that the Board is preparing to set this matter for hearing, the Illinois EPA took a moment to review the State Implementation Plan (SIP) notification language as proposed by the Illinois Environmental Regulatory Group (IERG) on page 40 of its Statement of Reasons. In the event that the Board were to adopt IERG's proposed revisions to 35 Ill. Adm. Code Parts 203 and 204, IERG has indicated that it would be their intent that the Illinois EPA would submit the final rules to USEPA for review and approval as a revision to Illinois' SIP. While reserving comment on any such regulatory review that the Illinois EPA would have to undertake prior to making any SIP submittal to USEPA, it would be best if any such notification met the requirements of Section 110 of the Clean Air Act. As recognized by IERG, SIP revisions are required to undergo public notice and an opportunity for hearing before they are submitted to USEPA for approval under 40 CFR §51.102 and Appendix V to Part 51. The Board's procedural rules provide for notice that meets this requirement, as set forth under 35 Ill. Adm. Code 102.416. To be adequate, the notice must describe the revisions and specify that the adopted rule will be submitted as a SIP revision to USEPA. IERG offered the following proposed language for inclusion in any public notice.

If adopted by the Board, the Illinois EPA will submit proposed amendments to Part 203 and Part 204 to the United States Environmental Protection Agency (U.S. EPA) for review and approval as a State Implementation Plan (SIP) revision to satisfy Clean Air Act ("CAA") requirements regarding Nonattainment New Source Review. 42 U.S.C. §§7410(a)(2)(C) and 7471. The revisions submitted to U.S. EPA will include not only the amendments to current regulatory provisions under this proposal, but also the newly created provisions, as well as an analysis demonstrating that the proposal does not interfere with attainment or maintenance of any applicable National Ambient Air Quality Standard, reasonable further progress, or any other applicable requirement of the CAA. This notice is intended to satisfy the requirements of Section 110(l) of the CAA, 42 U.S.C. §7410(l), regarding public notice for

SIP submittals.

The above language fails to recognize that substantive revisions have been requested to existing Part 204, Prevention of Significant Deterioration and, as such, any SIP submittal would be requesting approval as a SIP revision to satisfy CAA requirements concerning PSD. Further, the above language failed to cite to the substantive nonattainment plan provisions of the CAA in 42 U.S.C §7502. In lieu of the above language offered by IERG, the Illinois EPA would recommend the following or similar language be included in the Board's notice of hearings regarding this rulemaking:

If adopted by the Board, the Illinois EPA will submit proposed amendments to Part 203 and Part 204 to the United States Environmental Protection Agency (U.S. EPA) for review and approval as a State Implementation Plan (SIP) revision to satisfy Clean Air Act ("CAA") requirements regarding Nonattainment New Source Review and Prevention of Significant Deterioration. 42 U.S.C. §§7410(a)(2)(C), ~~and 7471 and 7502~~. The revisions submitted to U.S. EPA will include not only the amendments to current regulatory provisions under this proposal, but also the newly created provisions, as well as an analysis demonstrating that the proposal does not interfere with attainment or maintenance of any applicable National Ambient Air Quality Standard, reasonable further progress, or any other applicable requirement of the CAA. This notice is intended to satisfy the requirements of Section 110(l) of the CAA, 42 U.S.C. §7410(l), regarding public notice for SIP submittals.

While the Illinois EPA would not routinely submit comment in this manner, the Illinois EPA understands that the Hearing Officer would necessarily have to issue notice in the near term. In order to ensure that the requisite SIP notification language is included in any such notice, it is best for the Illinois EPA to offer this alternative language to the Board at this time.

Thank you for your consideration.

Sally Carter
Assistant Counsel

State of Illinois - CONFIDENTIALITY NOTICE: The information contained in this communication is confidential, may be attorney-client privileged or attorney work product, may constitute inside information or internal deliberative staff communication, and is intended only for the use of the addressee. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by return e-mail and destroy this communication and all copies thereof, including all attachments. Receipt by an unintended recipient does not waive attorney-client privilege, attorney work product privilege, or any other exemption from disclosure.