

ILLINOIS POLLUTION CONTROL BOARD  
August 11, 2022

IN THE MATTER OF: )  
)  
AMENDMENTS TO 35 ILL. ADM. CODE ) R22-17  
PART 203: MAJOR STATIONARY ) (Rulemaking - Air)  
SOURCES CONSTRUCTION AND )  
MODIFICATION, 35 ILL. ADM. CODE )  
PART 204: PREVENTION OF )  
SIGNIFICANT DETERIORATION, AND )  
PART 232: TOXIC AIR CONTAMINANTS )

ORDER OF THE BOARD (by A. Palivos):

On August 16, 2021, the Illinois Environmental Regulatory Group (IERG) proposed amendments to Parts 203 (Major Stationary Sources Construction and Modification), 204 (Prevention of Significant Deterioration), and 232 (Toxic Air Contaminants) of the Board’s air pollution regulations. *See* 35 Ill. Adm. Code 203, 204, 232. Accompanying the proposal were IERG’s Statement of Reasons, a Motion to Waive Requirement to Submit 200 Signatures, and other documents. *See* 35 Ill. Adm. Code 102.202(b), 102.202(g). On September 9, 2021, the Board accepted the proposal for hearing, and waived the signature requirement.

On May 6, 2022, the Illinois Attorney General’s Office (AG) filed a motion to stay the rulemaking pending the February 28, 2023, deadline set by the United States Court of Appeals for the D.C. Circuit (D.C. Circuit) for USEPA to file a motion regarding possible revision of federal regulations underpinning IERG’s proposal. The federal appeal concerns the Project Emissions Accounting Rule, which addresses when a source of air emissions must undergo the New Source Review permitting process. The Project Emissions Accounting Rule is included in the IERG’s proposal under both Parts 203 and 204. On May 20, 2022, IERG timely filed a response to the AG’s motion to stay. On June 3, 2022, the AG filed a motion for permission to file reply brief in support of motion to stay, along with the proposed reply. On July 6, 2022, the AG filed a status report regarding the Federal appeal.

In this rulemaking, the Board held two hearings and a pre-first notice final comment deadline had been set prior to the motion to stay being filed. The Board finds that the motion to stay addresses substantive issues that are better addressed after all pre-first notice comments are filed. Therefore, the Board and will rule on the motion to stay, as well as the Project Emissions Accounting Rule language when deciding whether to proceed to first notice. The Board grants the AG’s motion for leave to file a reply and accepts the attached reply.

On May 13, 2022, the Board extended the pre-first notice final comment deadline, with a new deadline to be set in a future Board order. The Board sets the pre-first notice final comment deadline for September 12, 2022, the first business day after the thirtieth day from this order. In addition to comments on the IERG’s proposal, the Board encourages IERG, the Illinois Environmental Protection Agency, AG and other participants to provide comments specifically

on the inclusion of the Project Emissions Accounting Rule language. The Board would like to hear whether the Project Emissions Accounting Rule should remain in the proposed Sections 203.1410 and 204.800, and what are the implications of moving forward with the IERG's proposal without it.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 11, 2022, by a vote of 5-0.

  
Don A. Brown

Don A. Brown, Clerk  
Illinois Pollution Control Board