

# ILLINOIS POLLUTION CONTROL BOARD

ORIGINAL

June 28, 2006

**GOVERNOR**

Rod R. Blagojevich

**CHAIRMAN**

G. Tanner Girard, Ph.D.

Jack Lavin, Director  
Department of Commerce and Economic Opportunity  
620 East Adams Street, S-6  
Springfield, Illinois 62704

Re: Request for Economic Impact Study for: **In the Matter of: Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits), R06-27**

Dear Director Lavin:

On June 22, 2006, the Board held a special Board Meeting and adopted a first notice opinion and order, without commenting on the merits of the June 20, 2006 proposal for a rulemaking filed by the Illinois Environmental Protection Agency (Agency). Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits), R06-27.

I am writing to request that your Department conduct an economic impact study concerning this proposal. Please note that the Agency has requested that the Board expedite its handling of this proposal to "level the playing field" between this and surrounding states for major sources of pollution which would need to be permitted by the Agency under the federal air permit program for prevention of significant deterioration (PSD) of air quality in attainment areas.

The Agency proposal seeks to amend the Board's air regulations by adding a new Section that would eliminate an automatic 30-day stay of the effectiveness of prevention of significant deterioration of air quality (PSD) permits. The amendments propose to add a new Subpart M to Part 201, the Board's general permit provisions. The proposed new Section 201.501 in effect provides that PSD permits are effective upon issuance a) unless the permit states otherwise by its terms, or b) an appeal has been filed and a stay of the permit has been granted.

In its Statement of Reasons that accompanied the proposal the Agency asserted that the PSD provisions of the Clean Air Act, 42 U.S.C. §7401 *et seq.*, were enacted in 1977 to regulate new major stationary sources and major modifications to existing sources. The PSD program applies in areas in the country that are deemed to be attainment or unclassifiable with respect to national ambient air quality standards (NAAQS). The Agency administers the PSD program through a delegation agreement with the United States Environmental Protection Agency (USEPA).

**SPRINGFIELD OFFICE**

1021 North Grand Ave. East  
P.O. Box 19274  
Springfield, IL  
62794-9274  
217-524-8500  
FAX 217-524-8508

**CHICAGO OFFICE**

James R. Thompson Center  
100 West Randolph  
Suite 11-500  
Chicago, IL 60601  
312-814-3620  
FAX 312-814-3669  
TTY 312-814-6032

**WEB SITE**

[www.ipcb.state.il.us](http://www.ipcb.state.il.us)



PSD involves a preconstruction permitting process in which an applicant for a major new source or modification must submit a permit application prior to commencing construction. The applicant must demonstrate that emissions from the proposed facility will not cause or contribute to an exceedance of any applicable NAAQS or air quality increment, and that the proposed facility will employ the Best Available Control Technology for all pollutants for which the source is major.

The Agency stated that an appeal of the PSD permit issued in Illinois is subject to the procedural requirements of the federal regulations at 40 CFR Part 124, which provide that final permits decisions are automatically stayed for 30 days after issuance. This rulemaking proposes to eliminate the automatic 30-day stay, thereby “leveling the playing field” between Illinois and surrounding states that have approved programs without the automatic stay. The Agency’s stated goal is to remove an economic disincentive to new development while not causing any adverse impact to the environment.

Since 1998, Section 27 (b) of the Environmental Protection Act has required the Board to:

1) “request that the Department of Commerce and Economic Opportunity (formerly the Department of Commerce and Community Affairs) conduct a study of the economic impact of the proposed rules. The Department may within 30 to 45 days of such request produce a study of the economic impact of the proposed rules. At a minimum, the economic impact study shall address a) economic, environmental, and public health benefits that may be achieved through compliance with the proposed rules, b) the effects of the proposed rules on employment levels, commercial productivity, the economic growth of small businesses with 100 or less employees, and the State’s overall economy, and c) the cost per unit of pollution reduced and the variability of company revenues expected to be used to implement the proposed rules; and

(2) conduct at least one public hearing on the economic impact of those rules. At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and Economic Opportunity’s explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as a part of any Board hearing considering such new rules.” 415 ILCS 5/27(b) (2004).

As earlier-stated, the Board has received a request from the Agency that the Board expedite this proposal. The Board has filed this proposal for first notice

publication in the *Illinois Register*, and is in the process of scheduling hearings as soon in August 2006 as possible. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study as soon as is possible. Receipt of your answer on or before July 14, 2006 would be helpful.

If I, or my staff, can provide you with any additional information, please let me know.

Thank you for your early response.

Sincerely,



G. Tanner Girard  
Acting Chairman  
Pollution Control Board

Cc: Warren Ribley, DCEO  
Dorothy M. Gunn, Clerk of the Board  
Erin Conley, Rules Coordinator