



OFFICE OF THE SECRETARY OF STATE

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06/29/2006

POLLUTION CONTROL BOARD

James R. Thompson Center 100 W. Randolph St., Ste 11-500
Dorothy Gunn
CHICAGO, IL 60601

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CLERK'S OFFICE

JUL - 3 2006

STATE OF ILLINOIS
Pollution Control Board

Dear Dorothy Gunn

Your rules Listed below met our codification standards and have been published in Volume 30, Issue 27 of the Illinois Register, dated 07/07/2006.

PROPOSED RULES

Permits and General Provisions

35 Ill. Adm. Code 201

Point Of Contact:Erin Conley

Page 11506

REGULATORY AGENDA

Organization, Public Information, and Types of Proceedings

2 Ill. Adm. Code 2175

Point Of Contact:Erin Conley

Page 11895

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code Part 201
- 3) Section Numbers: Proposed Action:
201.501 New Section
- 4) Statutory Authority: Implementing Sections 10, 39, and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5]
- 5) A Complete Description of the Subjects and Issues Involved:
This rulemaking is based on a proposal filed on June 20, 2006, by the Illinois Environmental Protection Agency (Agency). The Board has granted the Agency's request to expedite consideration of this proposal, and has authorized this publication of the proposal as submitted by the Agency. In so doing, the Board makes no comment on the merits of the proposal. This is explained in greater detail in the Board's opinion and order, available from the address in item 12 below, in In the Matter of: Amendments to 35 Ill. Adm. Code 201 (New Section 201.501 PSD Construction Permits), R06-27 (June 22, 2006).

The amendments seek to add a new Section to the Board's air regulations 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). 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 that demonstrates that emissions from the proposed facility will not cause or contribute to an exceedance of any

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ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 goal is to remove an economic disincentive to new development while not causing any adverse impact to the environment.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rule replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rule contain incorporations by reference? No
- 10) Are there any other proposed rules pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rule does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2004)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

The Board is currently in the process of scheduling hearings in this rulemaking. The Board will accept written public comment on this proposal for 45 days after the date of publication in the *Illinois Register*. Comments should reference Docket R06-27 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order by calling

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Dorothy Gunn at 312-814-3620, or download from the Board's Web site at www.ipcb.state.il.us.

For more information contact John Knittle at 217/278-3111 or email at knittlej@ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking could impact any small business, small municipality, or not-for-profit corporation that either applies for or appeals a PSD permit.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not propose any additional reporting or bookkeeping requirements.
- C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing state and federal air pollution control regulations applicable to affected sources will be required.

14) Reason this rulemaking was not included on the most recent regulatory agenda:
The Board did not receive an indication from the Agency at the time that the January regulatory agenda was compiled that this rulemaking would be proposed this year.

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 201
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section	
201.101	Other Definitions
201.102	Definitions
201.103	Abbreviations and Units
201.104	Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section	
201.121	Existence of Permit No Defense
201.122	Proof of Emissions
201.123	Burden of Persuasion Regarding Exceptions
201.124	Annual Report
201.125	Severability
201.126	Repealer

SUBPART C: PROHIBITIONS

Section	
201.141	Prohibition of Air Pollution
201.142	Construction Permit Required
201.143	Operating Permits for New Sources
201.144	Operating Permits for Existing Sources
201.146	Exemptions from State Permit Requirements
201.147	Former Permits
201.148	Operation Without Compliance Program and Project Completion Schedule
201.149	Operation During Malfunction, Breakdown or Startups
201.150	Circumvention
201.151	Design of Effluent Exhaust Systems

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section	
201.152	Contents of Application for Construction Permit
201.153	Incomplete Applications (Repealed)
201.154	Signatures (Repealed)
201.155	Standards for Issuance (Repealed)
201.156	Conditions
201.157	Contents of Application for Operating Permit
201.158	Incomplete Applications
201.159	Signatures
201.160	Standards for Issuance
201.161	Conditions
201.162	Duration
201.163	Joint Construction and Operating Permits
201.164	Design Criteria
201.165	Hearings
201.166	Revocation
201.167	Revisions to Permits
201.168	Appeals from Conditions
201.169	Special Provisions for Certain Operating Permits
201.170	Portable Emission Units

SUBPART E: SPECIAL PROVISIONS FOR OPERATING PERMITS FOR CERTAIN
SMALLER SOURCES

Section	
201.180	Applicability (Repealed)
201.181	Expiration and Renewal (Repealed)
201.187	Requirement for a Revised Permit (Repealed)

SUBPART F: CAAPP PERMITS

Section	
201.207	Applicability
201.208	Supplemental Information
201.209	Emissions of Hazardous Air Pollutants
201.210	Categories of Insignificant Activities or Emission Levels
201.211	Application for Classification as an Insignificant Activity
201.212	Revisions to Lists of Insignificant Activities or Emission Levels

SUBPART G: EXPERIMENTAL PERMITS
(Reserved)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

Section	
201.241	Contents of Compliance Program
201.242	Contents of Project Completion Schedule
201.243	Standards for Approval
201.244	Revisions
201.245	Effects of Approval
201.246	Records and Reports
201.247	Submission and Approval Dates

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

Section	
201.261	Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup
201.262	Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup
201.263	Records and Reports
201.264	Continued Operation or Startup Prior to Granting of Operating Permit
201.265	Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup

SUBPART J: MONITORING AND TESTING

Section	
201.281	Permit Monitoring Equipment Requirements
201.282	Testing
201.283	Records and Reports

SUBPART K: RECORDS AND REPORTS

Section	
201.301	Records
201.302	Reports

SUBPART L: CONTINUOUS MONITORING

Section	
201.401	Continuous Monitoring Requirements
201.402	Alternative Monitoring

ILLINOIS REGISTER

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) This Section relates to any final permit decision by the Agency relating to a Prevention of Significant Deterioration (PSD) construction permit issued pursuant to Sections 9.1 and 39 of the Act implementing Section 165 of the Clean Air Act.
- b) Notwithstanding the provisions of 40 C.F.R. 124.15(b), a final PSD construction permit shall become effective on the date of issuance unless otherwise stated in the final permit. However, any person with standing in accordance with 40 C.F.R 124.19 may seek to file an appeal with the United States Environmental Protection Agency's Environmental Appeals Board and may request a stay of the permit.
- c) This Section applies to permits issued on or after the effective date of the approval of this Subpart as part of Illinois' State Implementation Plan under the Clean Air Act.

(Source: Added at 30 Ill. Reg. ____, effective _____)