

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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STATE OF ILLINOIS
Pollution Control Board

- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 201
- 3) Section Number: Proposed Action:
201.501 New Section
- 4) Satutory Authority: Implementing Sections 10, 39, 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 condidertation 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 USC 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 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.

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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 rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings 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 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 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.

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- 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 Amendment begins on the next page:

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

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)

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
201.403 Exempt Sources
201.404 Monitoring System Malfunction
201.405 Excess Emission Reporting
201.406 Data Reduction
201.407 Retention of Information
201.408 Compliance Schedules

SUBPART M: PREVENTION OF SIGNIFICANT
DETERIORATION (PSD) CONSTRUCTION PERMITS

Section

201.501 PSD Construction Permits

201.APPENDIX A Rule into Section Table
201.APPENDIX B Section into Rule Table
201.APPENDIX C Past Compliance Dates

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].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended in R06-27 at 30 Ill. Reg. _____, effective _____.

SUBPART M: PREVENTION OF SIGNIFICANT
DETERIORATION (PSD) CONSTRUCTION PERMITS

Section 201.501 PSD Construction Permits

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~~section 165 of the Clean Air Act.

b) Notwithstanding the provisions of 40 ~~C.F.R.~~CFR 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.~~CFR 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 _____)

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Applicability

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78 201.210

Categories of Insignificant Activities or Emission Levels

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171 permit shall become effective on the date of issuance unless otherwise stated in
172 the final permit. However, any person with standing in accordance with 40 CFR

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174 Protection Agency's Environmental Appeals Board and may request a stay of the
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177 c) This Section applies to permits issued on or after the effective date of the approval
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179 Act.

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