



OFFICE OF THE SECRETARY OF STATE

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December 9, 2011

POLLUTION CONTROL BOARD
JOHN THERRIAULT ASSISTANT CLERK
100 W RANDOLPH ST, STE 11-500
CHICAGO, IL 60601

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CLERK'S OFFICE
DEC 15 2011
STATE OF ILLINOIS
Pollution Control Board

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 35, Issue 51 of the Illinois Register, dated 12/16/2011.

ADOPTED RULES

Permits and General Provisions

35 Ill. Adm. Code 201

Point of Contact: Nancy Miller

19790

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

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 201
- 3) Section Numbers: Adopted Action:
201.175 New
- 4) Statutory Authority: Implementing Sections 9.14, 10, 39, and 39.5 and authorized by Sections 9.14 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/9.14, 10, 27, 39, and 39.5].
- 5) Effective Date of Amendment: DEC - 5 2011
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this amendment contain incorporations by reference? No.
- 8) The adopted amendment is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph Street, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 2, 2011; 35 Ill. Reg. 14616.
- 10) Has JCAR issued a Statement of Objections to this amendment? No.
- 11) Differences between proposal and final version:

In proceeding from its original proposal for public comment to final adoption, the Board has responded to questions and comments by incorporating a number of changes. Generally, the Board has adopted the amended proposal for Registration of Smaller Sources (ROSS) submitted by the Illinois Environmental Protection Agency (Agency) to the Board on November 16, 2011. The Board has adopted amendments including the following:

In subsection 201.175(a), the Board amended the phrase "may register with the Agency" to "shall register with the Agency" to reflect the language of Section 9.14 of the Act. The Board also clarified that ROSS sources are not required either to obtain construction or operating permits or to comply with a permit issued under Section 201.169. The Board also added language stating that "[t]he owner and operator of a ROSS source are still

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subject to all applicable environmental statutes and regulations.” Finally, the Board added a subsection (a)(3) making sources subject to local siting under Section 39.2 of the Act ineligible for ROSS.

In subsection 201.175(b), the Board adopted language allowing sources to determined eligibility on the basis of calendar year emissions. The Board also adopted revisions allowing sources to determine continued eligibility on the basis of either calculating emissions or verifying that they meet eligibility criteria.

In subsection 201.175(c), the Board adopted language clarifying applicability and aligning payment of fess with amended registration deadlines.

In subsection 201.175(d), the Board adopted revised language establishing deadlines for registration and payment of fees.

In subsection 201.175(e), the Board amended language to clarify sources’ recordkeeping obligations.

In subsection 210.175(g), the Board effectively adopted the Agency’s re-drafted proposal, which addresses source becoming ineligible for ROSS and clarifies their permitting requirements.

In subsection 201.175(h), the Board amended the phrase “may register with the Agency” to “shall register with the Agency” to reflect the language of Section 9.14 of the Act.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will this amendment replace emergency amendments currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Amendment: For a more detailed description of this rulemaking, please see the Board’s December 1, 2011 opinion and order adopting these rules. Registration of Smaller Sources (ROSS): New 35 Ill. Adm. Code 201.175, R12-10 (Dec. 1, 2011).

The Agency filed its original proposal under the authority of Section 9.14 of the Act, which requires it to propose regulations implementing ROSS. The Agency stated that it dedicates significant resources to permitting and processing reports from “a large number

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of small sources whose aggregate emissions are small in comparison to the emissions from a small number of large sources.” The Agency developed ROSS, which “eliminates the need for around 3,250 smaller sources to obtain and hold a permit yet will allow the Agency to maintain a robust database of emissions sources in the state.”

- 16) Information and questions regarding this adopted amendment shall be directed to:

Timothy J. Fox
Illinois Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601
312-814-6085
foxt@ipcb.state.il.us

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R12-10 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

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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

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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
<u>201.175</u>	<u>Registration of Smaller Sources (ROSS)</u>

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

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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

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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

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

AUTHORITY: Implementing ~~by~~ Sections 9.14, 10, 39 and 39.5 and authorized by Section ~~279.14~~ of the Environmental Protection Act [415 ILCS 5/9.14, 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 R07-19 at 33 Ill. Reg. 11965, effective August 6, 2009; amended in R10-21 at 34 Ill. Reg. 19575, effective December 1, 2010; amended in R12-10 at 35 Ill. Reg. _____, effective _____.

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

Section 201.175 Registration of Smaller Sources (ROSS)

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- a) An owner or operator of an eligible source shall annually register with the Agency instead of complying with the requirement to obtain an air pollution construction or operating permit under the Act or complying with a permit issued under Section 201.169. The owner and operator of a ROSS source are still subject to all applicable environmental statutes and regulations. The source must meet all of the following criteria to be an eligible source:
- 1) Pursuant to Section 9.14 of the Act:
 - A) *The source must not be required to obtain a permit pursuant to the Clean Air Act Permit Program, or federally enforceable State operating permit program, or under regulations promulgated pursuant to Section 111 or 112 of the Clean Air Act;*
 - B) *USEPA has not otherwise determined that a permit is required;*
 - C) *The source emits less than an actual 5 tons per year of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions;*
 - D) *The source emits less than an actual 0.5 tons per year of combined hazardous air pollutant emissions;*
 - E) *The source emits less than an actual 0.05 tons per year of lead air emissions;*
 - F) *The source emits less than an actual 0.05 tons per year of mercury air emissions; and*
 - G) *The source does not have an emission unit or source subject to a standard pursuant to 40 CFR 61 (Maximum Achievable Control Technology) or 40 CFR 63 (National Emissions Standards for Hazardous Air Pollutants), other than those regulations that USEPA has categorized as "area source."*
 - 2) Emission units at the source are not used as thermal desorption systems pursuant to 35 Adm. Code 728. Table F or as incinerator systems.
 - 3) The source or its emission units must not be subject to local siting under

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Section 39.2 of the Act.

- b) For the purposes of determining whether the actual emissions from the source meet the criteria of subsections (a)(1)(C), (a)(1)(D), (a)(1)(E), and (a)(1)(F) of this Section, the owner or operator of a source shall only use emissions from units that are not exempt from the requirement to obtain a permit pursuant to Section 201.146, as follows:
- 1) Initial registration or reentry into ROSS: the owner or operator must sum the actual emissions from all units associated with the source for the prior calendar year. If the source is new, or has been operating less than one calendar year, projected estimated emissions may be used for all of the remaining months in the prior calendar year, respectively.
 - 2) Annual renewal of registration:
 - A) For the purposes of determining compliance with subsection (a)(1)(C) of this Section, the owner or operator must:
 - i) Verify that the source still meets the eligibility criteria in subsection (a)(1)(C); or
 - ii) Calculate emissions by summing all actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from all units associated with the source for the prior calendar year. The total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions for the prior calendar year must be less than or equal to 7 tons, or the total sum of actual emissions of combined particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and volatile organic material air pollutant emissions from the prior two calendar years must be less than or equal to 10 tons.
 - B) For the purposes of determining compliance with subsections (a)(1)(D), (a)(1)(E) and (a)(1)(F) of this Section, the owner or operator must:

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- i) Verify that the source still meets the eligibility criteria in subsections (a)(1)(D), (a)(1)(E), and (a)(1)(F) of this Section; or
 - ii) Calculate emissions by summing all actual emissions from all units at the source for the prior calendar year. Summed emissions of HAPs, mercury or lead must be less than or equal to 0.5 tons per year, 0.05 tons per year, or 0.05 tons per year, for the prior calendar year, respectively.
- c) The following must be included in each initial registration and each re-entry registration:
 - 1) The name, address, and telephone number of the source and of the person responsible for submitting and retaining copies of the registration information and the records;
 - 2) A statement that the source meets the requirements of this Section;
 - 3) A certification that the information submitted in subsections (c)(1) and (c)(2) of this Section is correct or a correction of the information; and
 - 4) The applicable fee pursuant to Section 9.14 of the Act.
- d) The owner or operator of an eligible source shall submit the registration required by subsection (c) of this Section as follows:
 - 1) Initial registration:
 - A) The owner or operator of a source holding a permit may register after the effective date of this Section and no later than their annual fee payment date in fiscal year 2013 (July 1, 2012 through June 30, 2013). The terms and conditions of a permit issued pursuant to Section 201.169 do not apply during the period the source is registered. The owner and operator of a ROSS source are still subject to all applicable environmental statutes and regulations.
 - B) The owner or operator of an operating source not holding a permit shall register no later than July 1, 2012.

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- C) The owner or operator of a new source shall register at least 10 days before commencing construction or operation and may commence construction or operation 10 days after submittal to the Agency.
- 2) Annual registration. The owner or operator of a ROSS source must pay an annual fee on or before their annual fee payment date. Annual payment of the fee is verification by the owner or operator that the source continues to meet the criteria in subsection (a), as determined by subsection (b)(2), as applicable.
- 3) Re-entry into ROSS under subsection (h). The owner or operator of a source that re-enters ROSS based on the criteria in subsection (a), as determined by subsection (b)(1), must register and pay an annual fee on or before their annual fee payment date.
- e) The owner or operator shall keep the following records and make them available for inspection by the Agency:
- 1) A description of the emission units associated with the source and their associated control devices;
- 2) A description of control efficiency or emission rates of any control devices that are relied upon to meet the criteria for ROSS in subsection (a), as determined by subsection (b)(1) or (b)(2), as applicable;
- 3) Documentation of the source's actual emissions and calculations demonstrating that the source is eligible for ROSS pursuant to the criteria in subsections (a), as determined by subsection (b)(1) or (b)(2), as applicable. This documentation may include, but is not limited to, annual material usage or emission rates;
- 4) A copy of the source's initial registration; and
- 5) A copy of the owner's or operator's annual fee payment for at least the most recent 5 calendar years.
- f) Changes to a ROSS source requiring notification: The owner or operator of the source must notify the Agency in writing within 45 days after the change to the

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source, if the information provided in subsection (c)(1) of this Section changes.

- g) Changes requiring a new or modified construction or operating permit, or compliance with conditions in an existing permit issued pursuant to Section 201.169:
- 1) The owner or operator must apply for a permit by the date required by the new regulation or statute if there is a change in a regulation or statutory requirement or a new regulation or statutory requirement that makes a source ineligible for ROSS under the criteria in subsection (a), as determined in subsection (b)(2), as applicable.
 - 2) If the source no longer meets the criteria in subsection (a), as determined by subsection (b)(2), as applicable:
 - A) The owner or operator of a source that did not have a permit under Section 201.169 prior to registration must apply and comply with the applicable requirements of the Act and 35 Ill. Adm. Code Parts 201 and 203, as follows:
 - i) If the source is eligible for a permit under Section 201.169, the owner or operator must apply for a permit within 90 days of the source's annual fee payment date.
 - ii) If the source is not eligible under Section 201.169, the owner or operator must apply for a permit as provided for under the Act and 35 Ill. Adm. Code Parts 201 and 203.
 - iii) If the source was not constructed or operated at the time of initial registration and has actual emissions in excess of the eligibility levels during the first or second year of operations as determined in subsection (b)(2), the owner or operator must apply for an operating permit and pay construction permit application fees.
 - B) The owner or operator of a source that had a permit under Section 201.169 prior to registration:
 - i) If the source is in compliance with the terms and conditions of the permit, the owner or operator shall notify the Agency

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no later than the source's annual fee payment date of the calendar year following the change in status from a ROSS eligible source to a permitted source.

- ii) If the source is not in compliance with the terms and conditions of the permit, but is still eligible for a permit pursuant to Section 201.169, the owner or operator must apply for a new or revised permit within 90 days of the source's annual fee payment date.
 - iii) If the source is not eligible for a permit pursuant to Section 201.169, the owner or operator must comply with the applicable permitting requirements under the Act and 35 Ill. Adm. Code Parts 201 and 203.
- h) Reentry into ROSS: the owner or operator of a source that changed status to become a permitted source pursuant to subsection (g) of this Section shall submit a registration for ROSS if the source meets the criteria in subsections (a), as determined in subsection (b)(1), in the prior calendar year.

(Source: Added at 35 Ill. Reg. _____, effective _____)