

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 18 2006

IN THE MATTER OF:)
)
AMENDMENTS TO 35 ILL. ADM. CODE)
201 (NEW SECTION 201.501 PSD)
CONSTRUCTION PERMITS))

R06-27
(Rulemaking - Air)

STATE OF ILLINOIS
Pollution Control Board

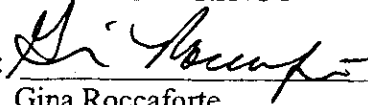
NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the Motion to Withdraw Rulemaking Proposal of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: July 18, 2006

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544
(217) 782-9143 (TDD)

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MOTION TO WITHDRAW RULEMAKING PROPOSAL

NOW COMES Proponent, the Illinois Environmental Protection Agency (Illinois EPA), by one of its attorneys, and pursuant to 35 Ill. Adm. Code 101.500, respectfully submits this Motion to Withdraw Rulemaking Proposal. In support of its Motion, the Illinois EPA states as follows:

1. On June 20, 2006, the Illinois EPA filed the rulemaking proposal with the Board to eliminate an automatic 30-day stay provision under the Prevention of Significant Deterioration of Air Quality (PSD) provisions of the Clean Air Act (CAA), 42 U.S.C. §7401 *et seq.*, as it applies to Illinois sources.

2. The PSD provisions of the CAA 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). 42 U.S.C. §7471.

3. The Illinois EPA administers the PSD program (40 CFR §52.21) in Illinois through a delegation agreement with the United States Environmental Protection Agency (USEPA). PSD involves a preconstruction permitting process. Under PSD, 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. 40 CFR §52.21.

4. As a result of the delegated program, an appeal of a 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. In a number of other states, USEPA has approved state programs that do not provide for an automatic 30-day stay, creating a disparity between Illinois' PSD delegated program and those certain other state PSD programs.

5. The sole purpose of the proposed rulemaking was to eliminate the automatic 30-day stay, thereby removing that particular distinction between Illinois and other states that currently do not have the automatic stay provision in their respective PSD programs. The proposed amendments would make inapplicable those provisions relating to an automatic 30-day stay after issuance of a final PSD construction permit. No new emission limitations or requirements regarding new control devices on affected sources would be imposed. The proposal would not otherwise alter nor affect 40 C.F.R. § 52.21 or 40 C.F.R. Part 124.

6. The rule, if adopted, would be subject to approval by USEPA, and could not be relied upon for PSD permits until USEPA has approved it as part of Illinois' State Implementation Plan.

7. However, following the filing of this proposed rulemaking, the Illinois EPA had occasion to discuss the proposed rulemaking with USEPA. After taking into consideration the substance of those subsequent discussions, the Illinois EPA has concluded that at this time the interests of its PSD program would be best served by a withdrawal of the rulemaking proposal. In making this request, the Illinois EPA wishes to make clear its appreciation of the Board's

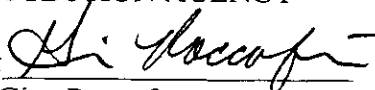
expeditious handling of the proposal, and regrets that the Board's administrative resources were expended to that end.

8. While the proposed rulemaking was submitted to the Board in good faith, further consideration of the proposal in conjunction with USEPA input has led to the filing of this Motion.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Board grant its Motion to Withdraw Rulemaking Proposal.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

DATED: July 18, 2006

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**THIS FILING IS SUBMITTED
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) SS
COUNTY OF SANGAMON)
)

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JUL 18 2006
STATE OF ILLINOIS
Pollution Control Board

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served by facsimile the attached
Motion to Withdraw Rulemaking Proposal upon the following person:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601-3218

and mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed
to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,



Gina Roccaforte
Assistant Counsel
Division of Legal Counsel

Dated: July 18, 2006

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SERVICE LIST 06-27

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STATE OF ILLINOIS
Pollution Control Board

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STATE OF ILLINOIS
Pollution Control Board

DATE: 7/18/06

FACSIMILE TRANSMITTAL SHEET

PLEASE DELIVER THE FOLLOWING PAGES TO:

PARTY'S NAME: DOROTHY GUNN
CLERK

FIRM/COMPANY NAME: ILLINOIS POLLUTION CONTROL BOARD

FACSIMILE NO: (312) 814-3069

TELEPHONE NO: _____

FROM: GINA ROCCAFORTE, ILLINOIS EPA

RE: RO6-27

TOTAL NUMBER OF PAGES (INCLUDING THIS PAGE): 7

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