

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 252
PUBLIC PARTICIPATION IN THE
AIR POLLUTION PERMIT PROGRAM
FOR MAJOR SOURCES IN NONATTAINMENT AREAS

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AUTHORITY: Implementing and authorized by Sections 4, 9.1(d) of the Environmental Protection Act (Ill. Rev. Stat. ch. 111 1/2. pars. 1004; 1009.1(d).

SOURCE: Adopted at 4 Ill. Reg. 10, p. 246, effective February 22, 1980; old rules repealed and new rules adopted at 8 Ill. Reg. 8197, effective June 1, 1984.

SUBPART A: INTRODUCTION

Section 252.101 Purpose

These rules are adopted to satisfy 40 CFR 51.18(h) (1983) and 35 111.Adm. Code 203.150 which require a period of public review for permits for construction or modification of certain emission sources.

Section 252.102 Applicability

These rules apply to all permit applications filed with the Illinois Environmental Protection Agency (Agency) for sources subject to 35 111. Adm. Code 203, "Major Stationary Sources Construction and Modification."

Section 252.103 Definitions

Terms in these rules have the same meaning as defined in Section 3 of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1003) and the Pollution Control Board Rules and Regulations on Air Pollution, 35 Ill. Adm. Code: Subtitle B, Chapter I.

SUBPART B: PROCEDURES FOR PUBLIC REVIEW**Section 252.201 Notice and Opportunity to Comment**

- a) The Agency shall issue a notice of its intent to grant or deny a permit subject to these rules.
- b) The notice shall be sent to:
 - 1) The public, by display advertisement in a general circulation newspaper in the area of the source;
 - 2) The Administrator of the U.S. Environmental Protection Agency (USEPA) by notifying the USEPA Region 5 office;
 - 3) Local government air pollution control offices in the area affected by the source;
 - 4) The chief executives of the municipality and county in which the source is to be located;
 - 5) Members of the General Assembly from the legislative district in which the source is to be located;
 - 6) In the case of a source whose emissions may affect an adjacent state, the bordering state or local air pollution control agency;
 - 7) The permit applicant; and
 - 8) Persons on the public participation mailing list for the air pollution permit program.
- c) The notice shall include:
 - 1) The name of the applicant;
 - 2) The location of the project;
 - 3) The preliminary decision of the Agency to grant or deny the permit;
 - 4) The location of the documents available for public review;
 - 5) A request for comments on the Agency's draft permit or proposed denial;
 - 6) The date by which comments must be postmarked; and
 - 7) Instructions on how to request a public hearing.

- d) The notice to the permit applicant shall also include:
 - 1) The draft permit or denial letter and summary required by Section 252.202, and
 - 2) Notice of an opportunity for hearing on Agency determinations of Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) pursuant to Section 39(f) of the Environmental Protection Act (111. Rev. Stat. 1983, ch 111 1/2, par. 1039(f)).
- e) The notice shall provide for a 30-day public comment period. The Agency may extend the comment period on written request if any applicable statutory period for the Agency decision, as prescribed in Section 39 of the Act, allows for an extensions.

Section 252.202 Draft Permit and Denial Letter

- a) If the Agency proposes to issue the permit, the Agency shall prepare for public review a draft permit with findings and proposed conditions.
- b) If the Agency proposes to deny the permit, the Agency shall prepare a denial letter which states the Agency's findings as related to its basis for denial.
- c) The Agency shall prepare a summary of its review of the application to accompany the draft permit or denial letter. The summary shall describe the basis of the Agency's decision to grant or deny the permit including an analysis of the project's effect on ambient air quality.

Section 252.203 Availability of Documents

- a) The following documents shall be made available for public inspection during the 30-day public comment period prior to the Agency's final action on a permit application:
 - 1) A copy of the permit application;
 - 2) The Agency draft permit or proposed denial letter;
 - 3) The Agency summary; and
 - 4) The public notice.
- b) Copies of the documents shall be placed in:
 - 1) The Agency library, 2200 Churchill Road, Springfield;
 - 2) The Division of Air Pollution Control regional or district office closest to the location of the proposed source; and

- 3) A library or other facility to which the public has access in the county where the source is to be located.
- c) All other documents associated with the permit application shall be available in accordance with procedures of the Agency and of the Pollution Control Board (35 Ill. Adm. Code 120) adopted pursuant to Sections 7 and 7.1 of the Act (Ill. Rev. Stat. 1983, ch 111 1/2, pars. 1007 and 1007.1).
- d) A summary of comments received by the Agency and a copy of the Agency's final decision will be placed in the locations listed in Section 252.203(b).

Section 252.204 Opportunity for Public Hearing

- a) A public hearing shall be held on any permit application subject to these rules if the Agency receives a written request for a hearing from:
 - 1) Twenty-five persons either individually or in a petition;
 - 2) A member of the General Assembly representing the district in which the source is to be located;
 - 3) A chief executive officer from a county or municipality in which the source is to be located; or
 - 4) The applicant.
- b) The Director or designee shall order that a hearing be held on a permit application subject to these rules when the Agency has determined that a hearing would serve the interests of the public or of the Agency. In making this determination, the Agency will consider:
 - 1) The level of public interest as indicated by the inquiries and comments received by the Agency on the proposed permit; and
 - 2) The opportunity to increase public understanding of the project and of the Agency's proposed decision by means of public hearing.
- c) Except for hearings requested by the applicant on the Agency's determination of BACT or LAER, the Hearings shall be conducted in accordance with the Agency's "Procedures for Permit Hearings," (35 Ill. Adm. Code 166).
- d) Hearings requested by the applicant on the Agency's determination of BACT or LAER shall be conducted in accordance with the Agency's "Rules of Practice and Procedure for Contested Case Hearings," (35 Ill. Adm. Code 168).
- e) Hearings requested by both the applicant and the public, on a permit which includes a determination of BACT or LAER by the Agency, shall be conducted in accordance with 35 Ill. Adm. Code 168.