

1 AN ACT concerning the environment.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Environmental Protection Act is amended
5 by changing Section 28.5 as follows:

6 (415 ILCS 5/28.5) (from Ch. 111 1/2, par. 1028.5)

7 (Section scheduled to be repealed on December 31, 2002.)

8 Sec. 28.5. Clean Air Act rules; fast-track.

9 (a) This Section shall apply solely to the adoption of
10 rules proposed by the Agency and required to be adopted by
11 the State under the Clean Air Act as amended by the Clean Air
12 Act Amendments of 1990 (CAAA).

13 (b) This Section is repealed on December 31, 2002.

14 (c) For purposes of this Section, a "fast-track"
15 rulemaking proceeding is a proceeding to promulgate a rule
16 that the CAAA requires to be adopted. For purposes of this
17 Section, "requires to be adopted" refers only to those
18 regulations or parts of regulations for which the United
19 States Environmental Protection Agency is empowered to impose
20 sanctions against the State for failure to adopt the such
21 rules. All fast-track rules must be adopted under procedures
22 set forth in this Section, unless another provision of this
23 Act specifies the method for adopting a specific rule.

24 (d) When the CAAA requires rules other than identical in
25 substance rules to be adopted, upon request by the Agency,
26 the Board shall adopt rules under fast-track rulemaking
27 requirements.

28 (e) The Agency shall submit its fast-track rulemaking
29 proposal in the following form:

30 (1) The Agency shall file the rule in a form that
31 meets the requirements of the Illinois Administrative

1 Procedure Act and regulations promulgated thereunder.

2 (2) The cover sheet of the proposal shall
3 prominently state that the rule is being proposed under
4 this Section.

5 (3) The proposal shall clearly identify the
6 provisions and portions of the federal statute,
7 regulations, guidance, policy statement, or other
8 documents upon which the rule is based.

9 (4) The supporting documentation for the rule shall
10 summarize the basis of the rule.

11 (5) The Agency shall describe in general the
12 alternative selected and the basis for the alternative.

13 (6) The Agency shall file a summary of economic and
14 technical data upon which it relied in drafting the rule.

15 (7) The Agency shall provide a list of any
16 documents upon which it directly relied in drafting the
17 rule or upon which it intends to rely at the hearings and
18 shall provide such documents to the Board. Additionally,
19 the Agency shall make such documents available at an
20 appropriate location for inspection and copying at the
21 expense of the interested party.

22 (8) The Agency shall include in its submission a
23 description of the geographical area to which the rule is
24 intended to apply, a description of the process or
25 processes affected, an identification by classes of the
26 entities expected to be affected, and a list of sources
27 expected to be affected by the rule to the extent known
28 to the Agency.

29 (f) Within 14 days of receipt of the proposal, the Board
30 shall file the rule for first notice under the Illinois
31 Administrative Procedure Act and shall schedule all required
32 hearings on the proposal and cause public notice to be given
33 in accordance with the Illinois Administrative Procedure Act
34 and the CAAA.

1 (g) The Board shall set 3 hearings on the proposal, each
2 of which shall be scheduled to continue from day to day,
3 excluding weekends and State and federal holidays, until
4 completed. The Board shall require the written submission of
5 all testimony at least 10 days before a hearing, with
6 simultaneous service to all participants of record in the
7 proceeding as of 15 days prior to hearing, unless a waiver is
8 granted by the Board for good cause. In order to further
9 expedite the hearings, presubmitted testimony shall be
10 accepted into the record without the reading of the testimony
11 at hearing, provided that the witness swears to the testimony
12 and is available for questioning, and the Board shall make
13 every effort to conduct the proceedings expeditiously and
14 avoid duplication and extraneous material.

15 (1) The first hearing shall be held within 55 days
16 of receipt of the rule and shall be confined to testimony
17 by and questions of the Agency's witnesses concerning the
18 scope, applicability, and basis of the rule. Within 7
19 days after the first hearing, any person may request that
20 the second hearing be held.

21 (A) If, after the first hearing, the Agency
22 and affected entities are in agreement on the rule,
23 the United States Environmental Protection Agency
24 has not informed the Board of any unresolved
25 objection to the rule, and no other interested party
26 contests the rule or asks for the opportunity to
27 present additional evidence, the Board may cancel
28 the additional hearings. When the Board adopts the
29 final order under these circumstances, it shall be
30 based on the Agency's proposal as agreed to by the
31 parties.

32 (B) If, after the first hearing, the Agency
33 and affected entities are in agreement upon a
34 portion of the rule, the United States Environmental

1 Protection Agency has not informed the Board of any
2 unresolved objections to that agreed portion of the
3 rule, and no other interested party contests that
4 agreed portion of the rule or asks for the
5 opportunity to present additional evidence, the
6 Board shall proceed to the second hearing, as
7 provided in paragraph (2) of subsection (g) of this
8 Section, but the hearing shall be limited in scope
9 to the unresolved portion of the proposal. When the
10 Board adopts the final order under these
11 circumstances, it shall be based on such portion of
12 the Agency's proposal as agreed to by the parties.

13 (2) The second hearing shall be scheduled to
14 commence within 30 days of the first day of the first
15 hearing and shall be devoted to presentation of
16 testimony, documents, and comments by affected entities
17 and all other interested parties.

18 (3) The third hearing shall be scheduled to
19 commence within 14 days after the first day of the second
20 hearing and shall be devoted solely to any Agency
21 response to the material submitted at the second hearing
22 and to any response by other parties. The third hearing
23 shall be cancelled if the Agency indicates to the Board
24 that it does not intend to introduce any additional
25 material.

26 (h) In any fast-track rulemaking proceeding, the Board
27 shall accept evidence and comments on the economic impact of
28 any provision of the rule and shall consider the economic
29 impact of the rule based on the record. The Board may order
30 an economic impact study in a manner that will not prevent
31 adoption of the rule within the time required by subsection
32 (o) of this Section.

33 (i) In all fast-track rulemakings under this Section,
34 the Board shall take into account factors set forth in

1 subsection (a) of Section 27 of this Act.

2 (j) The Board shall adopt rules in the fast-track
3 rulemaking docket under the requirements of this Section that
4 the CAAA requires to be adopted, and may consider a
5 non-required rule in a second docket that shall proceed under
6 Title VII of this Act.

7 (k) The Board is directed to take whatever measures are
8 available to it to complete fast-track rulemaking as
9 expeditiously as possible consistent with the need for
10 careful consideration. These measures shall include, but not
11 be limited to, having hearings transcribed on an expedited
12 basis.

13 (l) Following the hearings, the Board shall close the
14 record 14 days after the availability of the transcript.

15 (m) The Board shall not revise or otherwise change an
16 Agency fast-track rulemaking proposal without agreement of
17 the Agency until after the end of the hearing and comment
18 period. Any revisions to an Agency proposal shall be based
19 on the record of the proceeding.

20 (n) All rules adopted by the Board under this Section
21 shall be based solely on the record before it.

22 (o) The Board shall complete a fast-track rulemaking by
23 adopting a second notice order no later than 130 days after
24 receipt of the proposal if no third hearing is held and no
25 later than 150 days if the third hearing is held. If the
26 order includes a rule, the Illinois Board shall file the rule
27 for second notice under the Illinois Administrative Procedure
28 Act within 5 days after adoption of the order.

29 (p) Upon receipt of a statement of no objection to the
30 rule from the Joint Committee on Administrative Rules, the
31 Board shall adopt the final order and submit the rule to the
32 Secretary of State for publication and certification within
33 21 days.

34 (Source: P.A. 90-265, eff. 7-30-97.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.