

Status Report on Permits by Rule

The Illinois Environmental Protection Act was amended on July 12, 2011 to include a new Section on Permits by Rule as follow:

Sec. 39.12. Permits by rule.

(a) Except as otherwise prohibited by federal law or regulation, the Board may adopt rules providing for permits by rule for classes of facilities or equipment, provided that the permits by rule are consistent with federal and State laws and regulations. Proposals for permits by rule authorized under this Section may be filed by any person in accordance with Title VII of this Act.

(b) Board rules adopted under this Section shall include, but not be limited to, standards as may be necessary to accomplish the intent of this Act and rules adopted under this Act and the terms and conditions for obtaining a permit by rule under this Section, which shall include, but not be limited to, the following as prerequisites to obtaining a permit by rule: (i) the submittal of a notice of intent to be subject to the permit by rule and (ii) the payment of applicable permitting fees.

(c) Within one year after the effective date of this amendatory Act of the 97th General Assembly, the Agency shall, in consultation with the regulated community, identify types of permits for which permits by rule would be appropriate and consistent with State and federal law and regulations. The types of permits may include, but shall not be limited to, permits for open burning, certain package boilers and heaters using only natural gas or refinery gas, and certain internal combustion engines.

(d) Persons obtaining a permit by rule shall be subject to the same permitting fees that apply to persons obtaining individual permits.

(e) No person that has obtained a permit by rule shall violate this Act, rules adopted under this Act, or the terms and conditions of the permit by rule.

(Source: P.A. 97-95, eff. 7-12-11.)

The Agency and Bureaus within the Agency conducted meetings with the Illinois Environmental Regulatory Group (IERG) representing the regulated community to fulfill its responsibility under this law. A summary of each Bureau's action as of July 12, 2012 (within one year) is provided below:

Bureau of Air

The Bureau of Air permit staff met with IERG on several occasions to identify types of activities that could be covered under a permit by rule provision. The categories that have been identified that are in development:

1. Certain "Open Burning" activities as required; focusing on small ecological burns and facility fire training
2. Construction Permits at major CAAPP sources. Initial classes of sources of to be considered for Permit by Rule:
 - i. "Certain boilers and heaters using nat. gas or refinery gas" as required
 - ii. "Certain Internal Combustion Engines", as required
 - iii. Replacement of identical reactor components
 - iv. Central vacuum systems at manufacturing plants
 - v. Natural gas fired stress relief furnaces
 - vi. Electric powered stress relief furnaces
 - vii. Adding "propane" as a fuel for Certain boilers
 - viii. Fuel storage "on-site" for dispensing

- ix. “Temporary generators”

Bureau of Water

Title 35, Subtitle C of the Illinois Pollution Control Board’s regulations, currently do not contain any direct permits by rule for wastewater treatment systems or sources. There are however existing construction and operating permit exemptions for small sewer service connections and for limited types of industrial pretreatment systems.

The BOW/DWPC in conjunction with the Division of Legal Council is currently working on language to include in a proposal to revise the Subtitle C Regulations, specifically Part 309, expanding these exemptions for the construction of simple pH adjustment pretreatment systems, cooling towers, and oil/water separators, and include by rule, lifetime operating permits for all pretreatment systems and discharges which have not been modified or expanded. This would allow for the operation of these types of discharges and pretreatment systems to be regulated on the local level.

Bureau of Land

On November 1, 2011, along with the Bureau of Water and the Bureau of Air, the Bureau of Land Permit Section met with IERG representatives to discuss potential candidates for possible development of permit/authorization by rule or general permits for each of the IEPA Bureau’s. During the meeting there were no potential candidates identified for permit/authorization by rule beyond what was already in the regulations by either IERG or the Bureau of Land Permit Section staff. The two categories for consideration under the general permit process included indoor garbage transfer stations and smaller low volume compost facilities. In developing a general permit for these activities it may be possible to develop a streamlined registration process where an applicant could submit an application and seek coverage under a generalized permit, where both standardized conditions and general language have been established under the general permit for the predetermined categories.

Based on discussions with IERG in the November 1, 2011 meeting, the consensus was that expanding permit/authorization by rule or the development of general permits for indoor garbage transfer stations and smaller low volume compost facilities by the Bureau of Land are not immediate priorities and could be developed in the future as necessary.